PROPOSED MARKETING AGREEMENT FOR MILK -- CINCINNATI MIEKESHED IV E D

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U. S. Department of Agriculture

As used in this agreement, the following words and phrases shall be defined as follows:

- a. "Contracting producers" means and includes the Cooperative Pure Milk Association, the Kentucky, Indiana and Ohio Milk Producers' Association, the Milk Producers' Union, Inc. and such other producers and associations of producers of "fluid milk" sold or consumed in the "Cincinnati Metropolitan Area" as may become parties signatory to this agreement according to the terms thereof.
- b. "Contracting Distributors" means and includes such members of the Mutual Bottle Exchange Company of Cincinnati, and such purchasers and distributors and/or processors of "fluid milk" in the "Cincinnati Metropolitan Area" as may become parties signatory to this agreement according to the terms thereof.
- c. "Fluid Milk" means and includes milk sold, or to be sold, as whole milk, either at wholesale or retail by the "Contracting Distributors" in the markets as come under this agreement.
- d. "Other Milk Products" means cream, buttermilk, skim milk, all fluid derivations of milk and cottage cheese sold, or to be sold, in the area defined herein by the "contracting distributors".
- e. "The Dairy Council" means the Ohio Valley Unit of the National Dairy Council controlled jointly by the contracting producers and contracting distributors for advertising milk and health education.
 - f. "Secretary" means the Secretary of Agriculture of the United States.
- g. "Act" means the Act of Congress entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933.
- h. "The Cincinnati Metropolitan Area" means and includes all cities, towns, and suburban areas in Hamilton and Butler Counties and the town of Milford in Clermont County, Ohio and Kenton and Campbell Counties, Kentucky.
- i. "Advisory Board" means the Committee consisting of one representative from each of the three contracting producer organizations, one non-member producer, representative to be selected by the three contracting producer association representatives, and four representatives to be selected by the contracting distributors.

THE PARTIES to this agreement are the "contracting producers", parties of the first part, the "contracting distributors", parties of the second part, and the "Secretary", party of the third part.

WHEREAS, pursuant to the "Act", the parties hereto, for the purpose of correcting the conditions now obtaining in the marketing of "fluid milk" and other products, desire to enter into a marketing agreement under the provisions of Section 8 (2) of the "Act", and

WHEREAS, the "contracting producers" signatory hereto market more than 75% of the "fluid milk" distributed and consumed in the "Cincinnati Metropolitan Area", and

WHEREAS, the "contracting distributors" who distribute more than 75% of the "fluid milk" distributed in the "Cincinnati Metropolitan Area",

WHEREAS, the marketing of "fluid milk" and other milk products produced for distribution in the areas defined herein, and distribution thereof affect and enter into both the current of interstate commerce and current of intrastate commerce, which are inextricably intermingled.

NOW THEREFORE in consideration of the premises, the parties hereto agree as follows:

- 1. The prices at which "fluid milk" shall be sold by the "contracting producers" and purchased by the "contracting distributors" for distribution and consumption in the "Cincinnati Metropolitan Area" shall be those set forth in Exhibit "A". which is attached hereto and made a part hereof. The prices set forth in Exhibit "A" may be changed by agreement between the "contracting producers", and the "contracting distributors" provided, however, that such price changes shall become effective only upon the written approval of the "Secretary". Payments made to the Dairy Council Advisory Board and payments to the Milk Producers Association, signing this agreement shall be doomed part of the price paid the producers.
- 2. The production control plan governing the marketing of milk which is attached hereto, made a part hereof, and marked Exhibit "B", shall be binding upon the "contracting producers" as to all matters therein required as their part to be performed and upon the "contracting distributor" as to all matters therein required on their part to be performed. Such production control plan may be modified by the "contracting producers", but that such modified marketing plan shall become effective only upon the written approval of the Secretary".
- 3. (a) The wholesale and retail prices at which "fluid milk" shall be distributed by the "contracting distributor" in the "Cincinnati Metropolitan Area" shall be those defined and set forth in Exhibit "C" which is attached hereto and made a part hereof. The prices set forth in Exhibit "C" may be changed by agreement between contracting producers and the contracting distributors provided, however, that such price changes shall become effective only upon the written approval of the "Secretary".
- (b) The code of fair practices set forth in Exhibit "D" which is attached hereto and made a part hereof, shall be the code of fair practices for the "Cincinnati Metropolitan Area". The code set forth in Exhibit "D" may be changed by agreement between the "contracting distributors", provided, however, that such change shall become effective only upon the written approval of the "Secretary".

- 4. (a) The "contracting producers" authorize the "contracting distributors" to deduct one cent for each one hundred (100) pounds of base milk sold to said "contracting distributors" and to pay same to the Dairy Council, and the "contracting distributors" also agree to pay one cent per one hundred (100) pounds of all base milk purchased to the "Dairy Council".
- ment authorize the "contracting distributors" to deduct three cents per hundred (100) pounds of all milk, and to pay same to the respective associations from whose members the milk was received.
 - distributors" shall deduct a corresponding three cents for each one hundred (100) pounds of all milk purchased from said non-members and shall pay same to the Dairy Council which sum shall be kept as a separate fund and disbursed by action of the "Advisory Board" so as to secure to said producers, benefits similar to those now received by members of the "contracting producers" associations by virtue of their payments to the said producers association of dues of three cents per one hundred (100) pounds of milk sold by them.
 - (d) From the non-members of these associations the contracting distributors shall deduct one cent for each one mindred pounds of base milk sold to said contracting distributors and pay same to the Dairy Council.
 - 5. (a) The "Advisory Board" herein provided for shall assume full responsibility to the Secretary for the accuracy of all weights and butterfat tests of the producers' milk and the correctness of all statements with reference to the use and classification of milk sold by the "contracting distributors". All decisions of the "Advisory Board" shall be by three-fourths vote of those present and voting. In case of disagreement the matter may be referred to the "Secretary" for settlement.
 - (b) In order to discharge this responsibility in an adequate and satisfactory manner, the "Advisory Board", shall have the right to employ such testing, inspecting and auditing services as, in its judgment, is necessary, and such employees shall have the right, during the usual hours of business, to enter all plants and have access to all books of distributors, producers and producer associations.
 - (c) The contracting producers and the contracting distributors shall severally maintain systems of accounting which shall accurately reflect the true account and condition of their respective businesses. Their respective books and records shall, during usual hours of business, be subject to the examination of the Secretary (or his duly authorized representative) to assist him in the furtherance of his duties with respect to this agreement, including verification by the Secretary of the information furnished on the forms hereinafter referred to. The contracting producers and the contracting distributors shall severally, from time to time, furnish information to the Secretary on and in accordance with forms to be supplied by him. All information obtained by or furnished to the Secretary pursuant to this paragraph shall remain the confidential information of the Secretary, and shall not be disclosed by him except

upon lawful demand made by the President, by either House of the Congress, or any committee thereof, or by any court. The Secretary, however, may combine the information obtained from producers and/or distributors in the form of general statistical studies or data. The Secretary hereby agrees to issue regulations and prescribe penalties to be imposed in the event of any violation of the confidences or trust imposed hereby.

- (d) The testing of the milk need not be by employees of the "Advisory Board" provided that this work can be sufficiently supervised as to eliminate all possibility of unfairness or irregularity.
- (e) The "Advisory Board" herein provided is further authorized to prescribe and/or to arrange for the inspection of the methods and accuracy of the receiving and testing of milk from the producer; and the butterfat test of products sold.
- (f) The contracting producers and contracting distributors shall use their best efforts to assure the observance of the terms and conditions of this agreement by such producers and distributors. Subject to such regulations as the Secretary may prescribe, the contracting producers and the contracting distributors shall establish such agency or agencies as are necessary to (a) receive complaints as to violations by any contracting producers or contracting distributors of the terms or conditions of this agreement, (b) adjust disputes arising under this agreement between contracting producers and/or contracting distributors, (c) make findings of fact which may be published, (d) issue warnings to such persons, and (e) take such lawful measures as may be appropriate; and such agency or agencies if it or they deem it necessary, shall report its findings and action with respect thereto to the Secretary for appropriate proceedings under the act.
- (g) The "contracting producers" authorize the "contracting distributors" to deduct the necessary amount from each one hundred (100) pounds of milk sold to said "contracting distributors" to equal one half the amount required for all expenses of the "Advisory Board" and to pay same to the "Advisory Board" a like amount per one hundred (100) pounds of milk purchased to equal the remaining half of the amount for its expenses.
- (h) From the non-members of these associations the "contracting distributors" shall deduct the same amount from each one hundred (100) pounds of milk sold to said contracting distributors for the purpose of the expenses of the "Advisory Board" as they deduct from the "contracting producers."
- 6. The health standards governing the production, receiving, transportation, processing, bottling and distribution of "fluid milk" sold or distributed in the "Cincinnati Metropolitan Sales Area" shall be these established by the health ordinances of the cities in which it is sold and also the milk regulations of the states of Ohio and Kentucky.
- 7. This agreement shall become effective after such time as the "Secretary" may determine and shall continue in force until the last day of the month

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following the aforesaid effective date and thereafter from month to month, for the period of the Act.

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EXHIBIT "A"

PRODUCTION PRICES OF FLUID MILK

Prices paid to producers shall be determined with reference to the production control plan (set forth in Exhibit "B" to this agreement) which sets up definite quantities of milk known as "established basic quantities".

Class 1 milk shall be that sold for bottled and bulk milk both plain and flavored for fluid consumption, reduced to a basis of 3.7 butterfat.

Class 2 milk shall be that sold for bottled and bulk cream, bottled and bulk buttermilk, and cottage cheese, for fluid consumption; reduced to a basis of 3.7 butterfat.

Class 3 milk shall be the remainder of the milk not sold as Class 1 or 2 within the basic quantity and the quantity received in excess of base.

Each "contracting distributor" agrees to report to the "Advisory Board" by the tenth of each month the previous month's purchases and sales of milk in the forms listed in Classes 1, 2 and 3.

The total of the sales of all "contracting distributors" during the preceding month are to be used in determining the percentages of Class 1, Class 2 and Class 3 milk comprised in and in excess of the basic quantity in arriving at the price for base milk.

The price to the producer for base milk shall be determined by totaling the values of the quantities sold as Class 1, Class 2 and the quantity within the base of Class 3, at the following prices:

Class 1 milk \$1.75

Class 2 milk \$1.25

Class 3. The price of Class 3 milk shall be determined currently by the "Advisory Board" according to its usage. The "Advisory Board" may request bids from manufacturers or if able to dispose of Class 3 milk to better advantage by shipping to other markets or selling to ice cream or butter manufacturers not parties to this agreement, they may do so.

Price to producers for Class 1 and 2 milk is for 3.7% butterfat and is subject to a butterfat differential of 3ϕ for each 1/10 of a percent butterfat above or below 3.7% whenever the price for Chicago 92 score butter is below 30ϕ per pound. Whenever Chicago 92 score butter is 30ϕ or over, the differential shall be 4ϕ for each 1/10 of one percent.

The purchase and use reports to be sent in by the tenth of each month shall be summarized determining the percent of use in each Class for each dealer. The percentages and prices of the different classes for the market shall then be totaled by the "Advisory Board" and the average price for basic milk and excess milk for the market shall then be determined which price shall be paid to all producers by all "contracting distributors".

An equalization fund for all producers and distributors in the market shall be established by the "Advisory Board" with payments made to the fund by dealers whose class sales amount to more than the average of the market, and payments from the fund to those dealers whose class sales amount to less than the average for the market. Each dealer's relationship to the equalization fund shall be arrived at by the twelfth of the month, and the dealer notified of the amount of credit or debit balance, which debit balance shall be settled by the twentieth, and the credit by the first of the month following.

Milk may be transferred between dealers either in bulk or in original producers cans. Such transfers shall only be made with the consent of the "Advisory Board", and reports of all such transfers shall be made by both the transferring distributor and the receiving distributor on the same day to the "Advisory Board". Producers' weights and tests to be taken at the receiving plant but reports to be sent to and settlement to be made by the original dealer in the usual way. Settlement for milk as between dealers shall be direct. Producers shall have the right to supervise the weighing and testing of their milk at receiving plant.

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EXHIBIT "B"

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PRODUCTION CONTROL PLAN

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For the purposes of this agreement the term "established basic quantity" as used in respect to any producer, farm or herd, as the case may be, shall be the quantity of milk recorded as such in the files of the Associations, parties hereto; except that in respect to those producers who sell milk within the "Cincinnati Metropolitan Area" and who have no such established basic quantity, then established basic quantities shall be alloted by the producer members of the "Advisory Board" upon a basis which will be equitable as compared with the established basic quantities of all other producers delivering in the "Cincinnati Metropolitan Area"; and except that now producers, if any, will be allowed during the first ninety days in which they produce and market, a base equal to fifty percent of their average daily production for such ninety days. This basis to continue for the remainder of the calendar year 1933. Starting with January 1934, and annually thereafter, a new basic quantity shall be established for each producer by the producer members of the "Advisory Board", on the basis of sales of Class 1 and Class 2 milk.

- 1. Producers who are tenant renting farms may retain their respective basic quantities.
- 2. In case of tenants changing from one farm to another, or farm owners selling and purchasing a farm elsewhere, and who, by this procedure, change buyers of their milk, it is definitely understood that the basic quantity established goes with the cows, if accepted by the "Advisory Board".
- 3. An established basic quantity may be transferred with an entire herd where sale and transfer is made to one party at one transaction, provided such herd shall be maintained for six (6) months consecutively thereafter on the first farm on which such herd shall be established after such transaction.
- 4. Established Basic Quantities may be retained by producers only when milk is produced on farms that have supplied the market for "fluid milk" for consumption purposes in the "Cincinnati Metropolitan Area" within the past year or from farms that lie within a territory regularly supplying said market.
- 5. Where a herd is dispersed for any reason without a transfer of its established basic quantity, the herd must be replaced within sixty (60) days if such established basic quantity is to be retained by the producer.
- 6. Producers may combine all established basic quantities to which they may be entitled hereunder.
- 7. Any producer who is off the market for a period of more than sixty (60) days shall, upon resuming production, be treated for the purposes hereof as a new producers but cannot make a new basic quantity in excess of old established basic quantity.

- 8. Producers whose average daily production for any three (3) consecutive months is less than seventy percent (70%) of their established basic quantity, will thereby establish a new basic quantity equal to such average daily production.
- 9. No producer may be dropped except for failure to comply with requirements of the Department of Health or by the consent of the "Advisory Board" nor shall new producers be admitted to the market except by the consent of the "Advisory Board" as the market needs may require. No milk shall be purchased "Advisory Board" as the market needs may require, and then only by the consent of the "Advisory Board".

EXHIBIT "C"

WHOLESALE PRICES

Milk 3.5 Special Milk 4.5 Cream - Single 18 Cream - Double 30 Buttermilk - Plain	to 4.7 to 20 to 32 .5 to 3.2 .12	More Quarts Pints Half Pints \$.09 \$.06 \$.03 1/2 .11 .07 .03 3/4 .35 .20 .12 .50 .35 .21 .07 .04 .03 .11 .06 .03 1/2 container - 10¢ per 1b. 8¢ " "
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RETAIL PRICES AND GROCERY CHARGE AND/OR DELIVERY SALES PRICES

Tests	2 Gal or More Quarts Pints Half Pints
Milk (Not for all Quantities) 3.5 to 3.7 Special Milk 4.5 to 4.7 Certified Milk Inspected Milk 3.5 to 3.7	\$.11 \$.07 .13 .08 .18 .10 .18 .10 .10
Acidophilus Milk Skim Milk	.07 .09 .13 .56 .28 \$.14 .92 .46 .23

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GROCERY RE-SALE PRICE FOR CASH-AND-CARRY SALES

	Tests	2 Gal or More	Quarts Pints	<u>Half-Pints</u>
Milk (not, all quantities) Special Milk			\$.10 \$.07	
Buttermilk - Plain (4 qts Buttermilk - Creamed -	in one dol'y	30) .5%	.08	
Cream - Single	18 to 20	THE WAR THE TANK	.26	
Cream - Double Cottage Cheese - Creamed	30 to 32 4.0 to 4.5	.13 Jar	.44	.22

The following quantity discounts to Hotels, Restaurants, Hospitals, Schools, and other institutions where "fluid milk" purchases amount to

\$200.00 per month, discount rate 2% 300.00 " " " " 3% 400.00 " " " " 4% etc.

Maximum discount - 10%

Quantity discount to Grocers under one ownership buying "Fluid Milk" amounting to \$500.00 per month or more, rate of discount 5%.

The wholesale price shall apply on "Milk" purchased by recognized Welfare and Charitable organizations for indigent families.

Skim Milk in quantities of 50 gallons or over in one delivery, seven (7) cents per gallon net.

Cream for ice cream or candy manufacturers in quantities of ten (10) gallons or over in one delivery, five (5) cents per point net.

EXHIBIT "D"

CODE OF ETHICS

In accordance with the intent and purpose of the Act under whose authority this marketing agreement is entered into by the parties hereto, the following provisions of a code of Ethics are hereby made a part of this agreement:

SAMPLES

1. It shall be considered unfair practice to distribute samples of products; or to sell products which misrepresent the trade article.

SPECIAL INDUCEMENTS

- 2. It shall be considered unfair practice to give to any store retailing "fluid milk", special inducements not enjoyed by the sellers general trade; or to exchange goods except following Sundays or holidays.
- 3. It shall be considered unfair practice to give or to pay any hotel, restaurant, apartment or factory owners, managers, janitors, receiving clerks, maids, house-keepers, linen-room attendants, moving and real estate companies or agents, or any other persons, money, compensation, gratuity, free milk or any other dairy products, free service or discounts to secure business or testimonials.
 - 4. It shall be considered unfair practice directly or indirectly to give, loan, sell, or furnish ice boxes or ice; to furnish exterior signs, redecorate store or to loan money.

PREMIUMS - DISCOUNTS

- 5. It shall be considered unfair practice to pay a premium or allow discount of any sort to any new or old customers, except discounts shown on price list.
- 6. It shall be considered unfair practice to employ an advertising agency or agencies for special house to house soliciting campaigns or to employ groups of temporary employees for soliciting purposes or to offer any inducements to churches, lodges, etc. for new customers.

PAYING EMPLOYEES

7. It shall be considered unfair practice to offer to give employees prizes or bomuses for new customers.

ADVERTISING

- 8. It shall be considered unfair practice to take advertising in any program, periodical or publication of any kind except newspapers, or to give away novelties except as may be done collectively by all parties hereto.
- 9. It shall be considered unfair practice to place, or cause to be placed, individual advertisements or display type in telephone directories, or ads in hotel registers, customers' circulars, handbills or memu cards, or to do, or cause to be done.

GIVING GOODS AWAY

10. It shall be considered unfair practice to give away products,

DONATIONS

11. It shall be considered unfair practice individually to buy tickets for or make any donations to social, religious, charitable, political, civic (other than the Community Chest) or any other benefit or function, provided, however, that such purchases or donations may be made cooperatively by all parties hereto,

SPECIAL ROUTES

- 12. It shall be considered unfair practice to put on a route for the purpose of soliciting without sufficient business to constitute a route. (150 points to constitute a route.)
- 13. It shall be considered unfair practice to solicit business on the basis of time of delivery.

BOTTLES, ETC.

- 14. It shall be considered unfair practice to use any bottle, can, case or other container, the title to which is vested in any other person.
- 15. It shall be considered unfair practice to sell "fluid milk" in bottles or other containers, except in those on which there shall be blown or otherwise noted the seller's name, and said bottle shall be sealed with caps likewise bearing said name. (Retail stores purchasing "fluid milk" from a contracting distributor exempted) "Fluid milk" sold for re-sale shall be in store bottles, quarts 5ϕ , pints 5ϕ half-pints 3ϕ .

HIRING EMPLOYEES

- 16. It shall be considered unfair practice to hire an employee while in the employ of another.
- 17. It shall be considered unfair practice to place an employee in a territory, which within six months previously, he had covered for another person.
- 18. It shall be considered unfair practice for anyone to sell or solicit either for himself or as agent for another in a territory which within six months previously, has been covered by him in any capacity for another,

PRICES

19. It shall be considered unfair practice to continue to deliver "fluid milk" to any person who sells "fluid milk" at prices less than the established schedule of prices.

COUNTER SALES

20. It shall be considered unfair practice to sell "fluid milk" over the counter other than at the established schedule of retail prices to the ultimate consumer.

SPECIAL DELIVERIES

21. It shall be considered unfair practice to make regular daily special deliveries to retail customers.

MILK TESTS

22. It shall be considered unfair practice to sell or offer for sale milk which varies more than .2%, or cream more than 2% from the City and State Standards.

VENDING MACHINES

23. It shall be considered unfair practice to use new items such as special caps, vending machines, home service devices, etc. without first securing approval of the secretary or commission after thirty days public notice.

INVITING PUBLIC TO PLANTS

24. It shall be considered unfair practice to pay visitors to visit milk plants or to serve with refreshments other than dairy products.

NEW PRODUCTS

25. It shall be considered unfair practice not to give ten days notice to the Advisory Board before new products can be sold.

Docket No: A- 59 0- 59 Philippin Sch

Notice of hearing signed by the Secretary of Agriculture, November 12, 1937

UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL ADJUSTMENT ADMINISTRATION Washington, D. C.

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U. S. Department of Agriculture

The Agricultural Marketing Agreement Act of 1937, which reenacts and further amends Public No. 10, 73d Congress, as amended, authorized the Secretary of Agriculture to enter into marketing agreements with, and to issue orders applicable to, processors, producers, associations of producers, and others engaged in the handling of milk and its products in the current of interstate or foreign commerce or in a manner which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof.

Producers who supply handlers of milk operating in the Cincinnati market have petitioned the Secretary of Agriculture to hold a hearing for the purpose of considering a proposed marketing agreement and order regulating the handling of such milk. A public hearing has been scheduled for November 29, 1937, and will be held in the ball room of the Alms Hotel, McMillan and Victory Parkway, Cincinnati, Ohio.

The provisions of the proposed marketing agreement and the proposed order, as hereinafter set forth, have been prepared for the purpose of discussion at the public hearing and are not to be considered as having received the approval of the Secretary of Agriculture. Testimony for and against the proposed provisions, suggested revisions thereof and any additional provisions that may be offered, as well as testimony with respect to the general economic conditions affecting the handling of milk in the Cincinnati, Ohio, marketing area, will be heard at the hearing.

PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

ARTICLE I - DEFINITIONS

Section 1. Terms. The following terms shall have the following meanings:

- 1. "Secretary" means the Secretary of Agriculture of the United States.
- 2. "Cincinnati, Ohio, Marketing Area," hereinafter called the "Marketing Area," means the territory included within the boundary lines of Hamilton County and of St. Clair and Fairfield Townships in Butler County, all in the State of Ohio; and the counties of Campbell and Kenton in the State of Kentucky.

- 3. "Person" means any individual, partnership, corporation, association, and any other business unit.
- 4. "Producer" means any person, other than a new producer, who, in conformity with the health regulations, as applied and enforced by the proper authorities, with respect to milk which is sold for consumption in the form of milk in the marketing area, produces milk and delivers it to a handler.
- 5. "Handler" means any person who purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is sold in the marketing area and who, on his own behalf or on the behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.
 - 6. "Delivery period" means any calendar month.
- 7. Any person who, not having regularly sold milk to a handler for a period of 30 days prior to the effective date hereof, begins the regular delivery of milk to a handler, shall be known as a "new producer" during the first two full calendar months after deliveries are first made to a handler, after which he shall be known as a producer.
- 8. "Base" means the quantity of milk calculated for each producer pursuant to article IX.
- 9. "Base milk" is the milk delivered furing each delivery period but not in excess of the bases of all producers.
- 10. "Excess milk" is that quantity of milk delivered by producers during any delivery period which is in excess of base milk.

ARTICLE II - MARKET ADMINISTRATOR

Section 1. <u>Designation</u>. The agency for the administration hereof shall be a Market Administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

Sec. 2. Powers. - The Market Administrator shall:

- 1. Administer the terms and provisions hereof.
- 2. Report to the Secretary complaints of the violation of the provisions hereof.

Sec. 3. Duties .- The Market Administrator shall:

1. Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

- 2. Pay out of the funds provided by article XI the cost of his bond, his own compensation, and all other expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of his office.
- 3. Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.
- 4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article III or (b) made payments pursuant to articles VII and XI.
- 5. Promptly verify the information contained in the reports submitted by handlers.
- Sec. 4. Responsibility. The Market Administrator, in his capacity as such, shall not be held responsible in any way whatsoever to any person for errors in judgment, for mistakes, or for other acts, either of commission or omission, except for his own willful misfeasance, malfeasance, or dishonesty.

ARTICLE III - REPORTS OF HANDLERS

- Section 1. Submission of Reports. Each handler shall report to the Market Administrator, in the detail and form prescribed by the Market Administrator, as follows:
- 1. On or before the 10th day after the effective date hereof, the following information for the months of July, August, September, October, November, and December, 1937: (a) the receipts of milk at each plant from each producer, (b) the receipts of milk at each plant from handlers, (c) the milk, if any, produced by him, and (d) the utilization of all receipts of milk.
- 2. On or before the 5th day after the end of each delivery period,
 (a) the receipts of milk at each plant from producers and new producers,
 (b) the receipts of milk at each plant from handlers, (c) the milk, if any,
 produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.
- 3. Within 10 days after the Market Administrator's request with respect to any producer for whom such information is not in the files of the Market Administrator and with respect to a period or periods of time designated by the Market Administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.
- 4. On or before the 10th day after the end of each delivery period, his producer payroll, which shall show for each producer (a) the total delivery of milk with the average butterfat test thereof and (b) the amount of such producer's payment, with the deductions and charges involved.

Sec. 2. Verification of Reports. - Each handler shall make available to the Market Administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this article and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer.

ARTICLE IV - CLASSIFICATION OF MILK

- Section 1. <u>Class Definitions</u>.- Milk received by each handler, including milk produced by him, if any, shall be classified by the Market Administrator as follows:
- 1. Class I milk shall be all milk sold or given away in the form of milk and all milk not accounted for as Class II or Class III milk.
- 2. Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- 3. Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2 1/2 per cent of total receipts of milk and (b) as used to produce a milk product other than one of those specified in Class II.
- Sec. 2. Inter-handler and Non-handler Sales. Milk, including skim milk, sold by a handler to another handler or to a person who is not a handler but who distributed milk or manufactures milk products, shall be Class I milk: Provided, that if the selling handler on or before the 5th day after the end of the delivery period furnishes to the Market Administrator a statement, which is signed by the buyer and the seller, that such milk was used in Class II or Class III, such milk shall be classified accordingly, subject to verification by the Market Administrator.
- Sec. 3. <u>Computation of Butterfat in Each Class</u>. For each delivery period, the Market Administrator shall compute for each handler the butterfat in each class, as set forth in section 1, as follows:
- 1. Determine the total pounds of butterfat received as follows:

 (a) multiply the weight of the milk received from producers by the actual butterfat content, (b) multiply the weight of the milk produced by him, if any, by the actual butterfat content, (c) multiply the weight of the milk received from handlers, if any, by the actual butterfat content, and (d) add together the resulting sums.
- 2. Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the actual butterfat content and (b) add together the resulting sums.
- 3. Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of the several products of Class III milk by the actual butterfat content, (b) multiply the actual

weight of the plant shrinkage, which shall not exceed 2 1/2 per cent of total receipts, by the average butterfat test of milk received, and (c) add together the resulting sums.

- 4. Determine the total pounds of butterfat in Class I milk as follows: subtract the total pounds of butterfat in Classes II and III, as computed above, from the total pounds of butterfat received.
- 5. Determine the classification of the butterfat received from producers, as follows:
- (a) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (b) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.
- (c) In the case of a handler that is wholly owned by a cooperative association, which the Secretary determines to be qualified under the Capper-Volstead Act, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat delivered by members of said cooperative association.
- Sec. 4. Computation of Milk in Each Class. For each delivery period, the Market Administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and to which the prices set forth in article V apply, as follows:
- l. Divide by 4 the butterfat computed for each class, in accordance with paragraph 5 of section 3.

ARTICLE V - PRICES

Section 1. <u>Class Prices</u>. Each handler shall pay at the time and in the manner set forth in article VII not less than the following prices for milk delivered f.o.b. plant in the marketing area on the basis of milk of 4 per cent butterfat content as follows:

Class I milk - \$2.75 per hundredweight: <u>Provided</u>, that where Class I milk is delivered to the residence of a relief client and paid for by a recognized relief agency, there shall be deducted from the Class I price not more than 60 cents per hundredweight.

Class II milk - \$2.00 per hundredweight.

Class III milk - The price per hundredweight which shall be calculated by the Market Administrator as follows: multiply by 4 the average price per pound of 92 score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during

which such milk is delivered, and add 30 per cent thereof: Provided, that for a quantity of Class III milk not to exceed 6 per cent of the Class I milk delivered by producers, the price shall be the average butter price, as used above, plus 3 cents multiplied by 4.

- Sec. 2. Computation of Value of Milk for Each Handler. For each delivery period, the Market Administrator shall compute the value of milk which each handler has received from producers or an association of producers, as follows:
- 1. Multiply the hundredweight of milk in each class, computed in accordance with section 4 of article IV, by the respective class price.
 - · 2. Add together the resulting sums.
- 3. If, in the verification of reports from handlers, the Market Administrator discovers errors in the reports submitted by any handler or errors in payments to producers, for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
- Sec. 3. Notification to Each Handler of Value of Milk. On or before the 8th day after the close of each delivery period, the Market Administrator shall notify each handler of the value of milk computed in accordance with section 2.

ARTICLE VI - DETERMINATION AND ANNOUNCEMENT OF VALUES AND PRICES

- Section 1. Computation of Excess and New Producer Prices.— For each delivery period, the Market Administrator shall determine the price for each pound of butterfat in milk in excess of base and in milk delivered by new producers, as follows: multiply the average price per pound of 92 score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, by 1.30.
- Sec. 2. Computation of Price for Base Milk. For each delivery period the Market Administrator shall compute the price for base milk as follows:
- 1. Add together the values of milk, as computed in article V, section 2, for each handler who made the payments required by article VII.
- 2. Subtract from this sum an amount computed as follows: multiply the total pounds of butterfat in the milk in excess of base milk and in the milk received from new producers by the price computed in section 1.
- 3. Subtract, if the average test of all base milk is greater than 4 per cent butterfat, or add, if the average test of such milk is less than 4 per cent, an amount computed as follows: multiply the hundred-weight of base milk, which is above or below 4 per cent, by the variance from 4 per cent and multiply the resulting sum by \$.40.

- 4. Add the cash balance, if any, in the settlement fund.
- 5. Divide by the total hundredweight of milk which is not in excess of the bases of producers.
 - 6. Subtract the fraction of a cent, if any.
- Sec. 3. Announcement of Prices. On or before the beginning of the following delivery period, the Market Administrator shall notify each handler of the prices for milk in excess of base, for milk delivered by new producers, and for base milk, and shall make public announcement of the computation of the price for base milk.

ARTICLE VII - PAYMENT FOR MILK

- Section 1. <u>Payment to Producers.</u>— On or before the 5th day after the end of each delivery period, each handler shall pay each producer, from whom he has received milk, \$1.00 per hundredweight for all milk delivered during the delivery period.
- Sec. 2. Payment to Settlement Fund. On or before the 10th day after the end of each delivery period, each handler shall pay to the Market Administrator a check in the amount of the value of milk computed for him for said delivery period, less the amount paid out in accordance with section 1, and less the amount of the deductions and charges itemized on his producer pay roll.

ARTICLE VIII - SETTLEMENT FUND

- Section 1. <u>Establishment</u>. The Market Administrator shall establish and administer a settlement fund into which he shall deposit (a) the subtraction as provided for in paragraph 6 of section 2 of article VI, and (b) the check, received from each handler on or before the 10th day after the end of each delivery period, in the amount of the value of milk computed for him, less the amount paid to producers in accordance with section 1 of article VII and less the amount of the deductions and charges itemized on his producer pay roll.
- Sec. 2. <u>Disbursement.</u>— The Market Administrator shall disburse the settlement fund as follows:
- 1. On or before the 20th day after the end of each delivery period, pay out of said fund to each producer, other than a new producer, who delivered milk during said delivery period to a handler, who paid into the settlement fund in accordance with article VII, an amount computed as follows:
- (a) Multiply the total pounds of butterfat in the milk, delivered by each producer in excess of his base, by the price for excess milk, computed in accordance with section 1 of article VI;
- (b) Multiply the hundredweight of milk, delivered by each producer but not in excess of his base, by the price for base milk: Provided, that if the milk not in excess of his base is of a butterfat content other than 4 per cent, there shall be added or subtracted for each one-

tenth of 1 per cent variance, 4 cents per hundredweight;

- (c). Add together the resulting amounts;
- (d) Subtract the amount of the charges, if any, which have already been paid by the handler to whom each producer's milk was delivered; and
- (e) Subtract the amount per hundredweight according to the applicable section of article X.
- 2. On or before the 20th day after the end of each delivery period, pay out of said fund to each new producer, who delivered milk to a handler who paid into the settlement fund in accordance with article VII, an amount computed as follows:
- (a) Multiply the total pounds of butterfat in the milk, delivered by each such new producer during said delivery period, by the price for new producer milk computed in accordance with section 1 of article VI;
- (b) Subtract from the above amount, the amount of the charges, if any, which have already been paid by the handler to whom each such new producer's milk was delivered; and
- (c) Subtract the amount per hundredweight according to the applicable section of article X.

ARTICLE IX - DETERMINATION OF BASES

- Section 1. Producer's Initial Daily Base. On or before the 15th day after the effective date of this instrument, the Market Administrator shall inform each producer and the handler to whom he sells, of his daily base which shall be in effect for the first three calendar months of 1938 and which the Market Administrator shall compute as follows: divide the total milk delivered by each producer during the months of July, August, September, October, November and December, 1937, by the number of days on which such producer delivered milk and adjust the figure so determined by such a percentage as will make the total of all such figures approximately equal to 130 per cent of the average Class I and Class II milk sold per day during July, August, September, October, November and December, 1937, by all handlers to whom such milk is delivered.
- Sec. 2. New Producer's Daily Base. On or before the 15th day after the close of the second full calendar month after deliveries are first made by a new producer, the Market Administrator shall inform each such producer and the handler to whom he sells, of his daily base, which shall be in effect for the remainder of the calendar quarter and which the Market Administrator shall compute as follows: divide the total milk delivered by such producer during the period when he received the new producer price by the number of days on which deliveries were made and adjust the figure so determined by the percentage used in determining the bases of other producers for the current calendar quarter.
- Sec. 3. <u>Producer's Daily Base</u>. On or before the 15th day after the close of each calendar quarter, the Market Administrator shall inform

each producer, and the handler to whom he sells, of his daily base which shall be in effect for the current calendar quarter and which the Market Administrator shall compute as follows: divide the total milk delivered by each producer not in excess of his base during the preceding calendar quarter by the number of days on which such producer delivered milk and adjust the figure so determined by such a percentage as will make the total of all rigures approximately equal to 130 per cent of the average Class I and Class II milk sold per day during the previous calendar quarter by all handlers to whom such milk is delivered.

Sec. 4. Producer's Delivery Period Base. For each delivery period the base of each producer shall be computed as follows: multiply the daily base by the number of days on which he delivered milk.

ARTICLE X - MARKETING SERVICES

Section 1. Payment to an Association.— If any producer is a member of, or under contract with, a cooperative association, determined by the Secretary to be qualified under the Capper-Volstead Act and to be rendering the services set forth in section 2, the Market Administrator shall subtract, in the computation of the payment to said producer in accordance with article VIII, that amount which said producer has authorized his association to deduct per hundredweight for milk marketed through it, as evidenced by an official notice from the responsible officers of said association to the Market Administrator, and shall pay said deduction to said association on or before the 20th day after the end of each delivery period.

Sec. 2. <u>Deduction from Non-Members</u>. If any producer is not a member of, or under contract with, an association, qualified under section 1, the Market Administrator shall deduct, in the computation of the payment to said producer in accordance with article VIII, 4 cents per hundredweight to be used by the Market Administrator only to supply market information to, and to verify the weight, sampling and testing of the milk delivered by, such producer:

ARTICLE XI - EXPENSE OF ADMINISTRATION

Section 1. Payment by Handlers. As his pro rata share of the expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of the office of the Market Administrator, each handler shall, with respect to all milk received from producers or produced by him during the delivery period, pay to the Market Administrator on or before the 10th day after the end of each delivery period that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 8th day after the end of each delivery period by the Market Administrator.

ARTICLE XII - AMENDMENT, SUSPENSION, AND TERMINATION

Section 1. Effect of Amendment, Suspension, or Termination. The amendment, suspension, or termination of any or all of the provisions of

this instrument shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise in connection with any of the provisions herein.

Sec. 2. Power of the Market Administrator to Liquidate. Upon the suspension or termination of this instrument, the powers and duties of the Market Administrator shall be continued for the purpose of permitting the Market Administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.

ARTICLE XIII - LIABILITY

Section 1. Handlers. The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

N. B. In addition to the foregoing, the following provisions are proposed to be included in a marketing agreement.

ARTICLE XIV - AMENDMENTS

Section 1. Proposals.— Amendment of any or all provisions hereof may at any time be proposed in writing by any handler signatory hereto or by the Secretary. Any amendment proposed in writing by any one or more handlers signatory hereto shall be deposited with the Market Administrator who shall promptly mail the same to the Chief of the Dairy Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

ARTICLE XV - ANTI-TRUST LAWS

Section 1. Anti-trust Laws. - Any exemption from the anti-trust laws and any validation of any acts or things, which otherwise would have been unlawful, resulting from the execution of this agreement by the Secretary, shall not extend or be construed to extend further than is absolutely necessary for the purpose of carrying out the provisions of this agreement.

ARTICLE XVI - DURATION OF IMMUNITIES

Section 1. <u>Duration of Immunities</u>.— The benefits, privileges, and immunities conferred by virtue of this agreement shall cease upon its termination, except with respect to acts done under and during the existence of this agreement, and the benefits, privileges, and immunities conferred by this agreement upon any parties signatory hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this agreement.

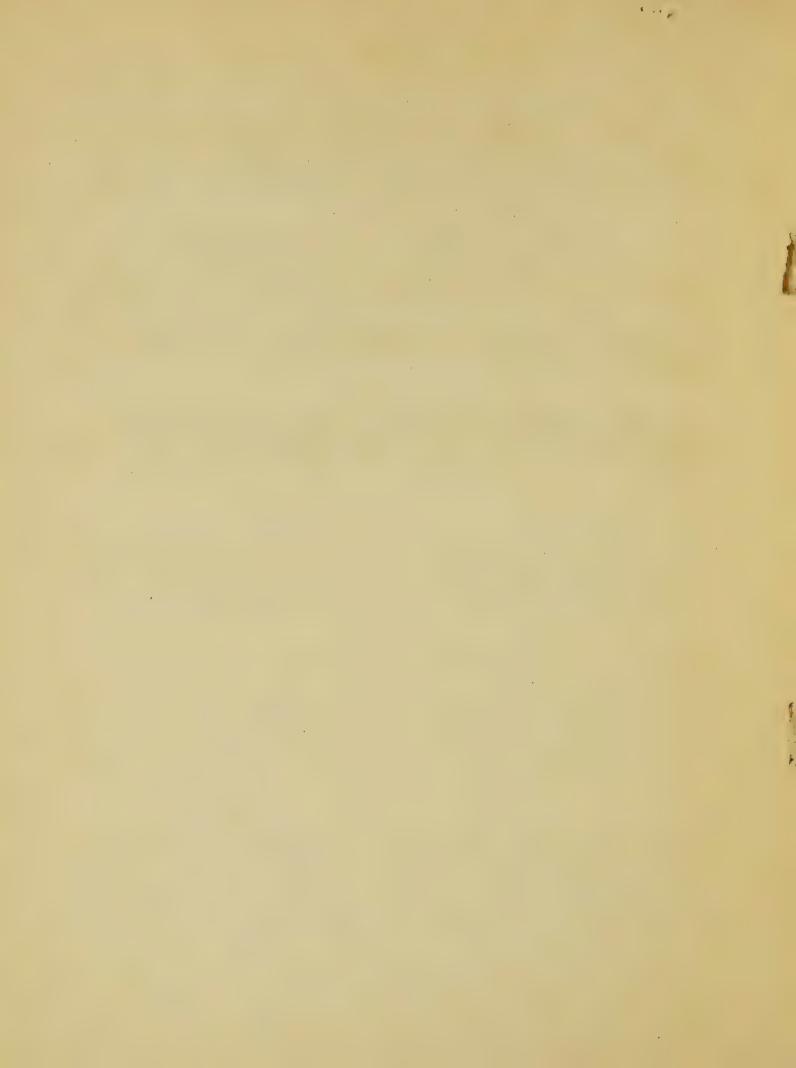
ARTICLE XVII - AGENTS

Section 1. Agents.— The Secretary may, by a designation in writing, name any person (not a party to this agreement), including any officer or employee of the Government, or name any bureau or division of the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this agreement.

ARTICLE XVIII - ADDITIONAL PARTIES AND COUNTERPARTS

Section 1. Additional Parties. After this agreement first takes effect, any handler may become a party to this agreement if a counterpart thereof is executed by him and by the Secretary. This agreement shall take effect, as to such handler, at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such handler.

Sec. 2. Counterparts. This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument, as if all such signatures were obtained in one original.



UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL ADJUSTMENT ADMINISTRATION

Docket No. A-59 0-59

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

WHEREAS, under the Agricultural Marketing Agreement Act of 1937, which reenacts and further amends Public No. 10, 73rd Congress, as amended, notice of hearing is required in connection with a proposed marketing agreement and a proposed order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon marketing agreements and orders;

WHEREAS, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of said act with respect to the handling of milk in the Cincinnati, Ohio, Marketing Area;

NOW, THEREFORE, pursuant to the said act and said general regulations notice is hereby given of a hearing to be held on a proposed marketing agreement and a proposed order regulating the handling of milk in the Cincinnati, Ohio, Marketing Area, in the Ballroom of the Alms Hotel, McMillan and Victory Parkway, Cincinnati, Ohio, on November 29, 1937 at 9:30 a.m., eastern standard time.

This public hearing is for the purpose of receiving evidence as to the general economic conditions which may necessitate regulation in order to effectuate the declared policy of the act and as to the specific provisions which a marketing agreement and order should contain.

The proposed marketing agreement and the proposed order each embodies, in similar terms, a plan for the regulation of such handling of milk in the Cincinnati, Ohio, Marketing Area as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce in such milk. Among other things, the proposed marketing agreement and order provide for: (a) selection of a market administrator; (b) classification of milk; (c) minimum prices; (d) payments to producers through the use of a marketwide settlement fund with a base rating plan; (e) deductions from payments to producers for marketing services by market administrator; (f) reports of handlers; (g) expense of administration.

Copies of the proposed marketing agreement and proposed order may be inspected in or procured from the office of the Hearing Clerk, Room 0318, South Building, United States Department of Agriculture, Washington, D. C.

/s/ Harry L. Brown
Acting Secretary of Agriculture

Dated: Nov. 12, 1937.

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UNITED STATES DEPAREMENT OF AGRICULTURE AGRICULTURAL ADJUSTMENT ADMINISTRATION

TENTATIVELY APPROVED MARKETING AGREEMENT REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

I hereby certify that this document is a true and correct copy of the said Marketing Agreement as tentatively approved by the Secretary of Agriculture.

Hearing Clerk,

U. S. Department of Agriculture

Dated: March 22, 1938.

Washington, D. C.



INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Handlers of milk who wish to enter into the Marketing Agreement Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area with the Secretary of Agriculture should fill in and righ in accordance with the following instructions:

- 1. The agreement should be signed in the space provided for the signer's signature and address on page 10 just below article headed "Signature of Parties." The type of business organization which you represent, whether corporation, partnership, or individual, should be indicated with your signature. If your business is organized as a corporation you should be sure to impress the corporate seal at the left of your signature.
- 2. The record of milk handled during the month of January 1938 should be properly certified as indicated on page 12.
- 3. The authorization to correct typographical errors on page 13 should be signed.
- 4. If your business is a corporation the board of directors should pass a resolution, in the form attached to the agreement on page 13, authorizing the signing of this agreement.
- 5. In the case of partnerships and corporations the agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed, the agreement should be returned to the Hearing Clerk, Room 0318 South Building, United States Department of Agriculture, Washington, D. C.

TENTATIVELY APPROVED MARKETING AGREEMENT REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

WHEREAS, under the terms and provisions of Public No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

WHEREAS, the Secretary of Agriculture, having reason to believe that the execution of a marketing agreement would tend to effectuate the declared policy of the said act with respect to the producers of milk for the Cincinnati, Ohio, marketing area, on the 12th day of November 1937 gave notice of a public hearing to be held at Cincinnati, Ohio, on the 29th day of November 1937 on a proposed marketing agreement and a proposed order, and at the said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the said proposed marketing agreement and the said proposed order; and

WHEREAS, the Secretary of Agriculture reopened said hearing at Cincinnati, Ohio, on the 4th and 20th days of January 1938 and the 2nd day of February 1938 for the purpose of receiving additional evidence; and

WHEREAS, the Secretary of Agriculture has found and proclaimed the period August 1919-July 1929 to be the base period to be used in connection with ascertaining the purchasing power of milk in the Cincimnati, Ohio, marketing area; and

WHEREAS, the Secretary of Agriculture finds upon the basis of the evidence introduced at the said hearings that the execution of this marketing agreement and all of its terms and provisions will tend to effectuate the declared policy of the said act; and

WHEREAS, the parties hereto, in order to effectuate the declared policy of the said act, desire to enter into this marketing agreement,

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I - DEFINITIONS

Section 1. Terms. - The following terms shall have the following definitions:

- 1. "Secretary" means the Secretary of Agriculture of the United States.
- 2. "Cincinnati Marketing Area," hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.
- 3. "Person" means any individual, partnership, corporation, association, and any other business unit.
- 4. "Producer" means any person who, in conformity with the health regulations, as applied and enforced by the proper authorities, with respect to milk which is sold for consumption in the form of milk in the marketing area, produces milk and delivers it to a handler:

 Provided, That if such producer has not regularly distributed milk in the marketing area or sold milk to a handler for a period of 30 days prior to the effective date hereof, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" during the first two full calendar months after deliveries are first made to a handler, after which he shall be known as a producer.
- 5. "Handler" means any person who purchases or receives milk from producers, associations of producers, or other handlers, all or a portion, of which milk is sold in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.
 - 6. "Delivery period" means any calendar month.

ARTICLE II - MARKET ADMINISTRATOR

Section 1. Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

- Sec. 2. Powers .- The market administrator shall:
- 1. Administer the terms and provisions hereof;
- 2. Report to the Secretary complaints of the violation of the provisions hereof.
 - Sec. 3. Duties .- The market administrator shall:

- 1. Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;
- 2. Pay out of the funds provided by article IX the cost of his bond, his own compensation, and all other expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of his office;
- 3. Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate:
- 4. Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within two days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to article III or (b) made payments pursuant to articles VII and IX; and
- 5. Promptly verify the information contained in the reports submitted by handlers.

ARTICLE III - REPORTS OF HANDLERS

- Section 1. Submission of Reports. Each handler shall report to the market administrator, in the detail and form prescribed by the Market administrator, as follows:
- 1. On or before the 10th day after the end of each delivery period,
 (a) the receipts of milk at each plant from producers and new producers,
 (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.
- 2. Within 10 days after the market administrator's request with respect to any producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the Market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.
- 3. On or before the 10th day after the end of each delivery period, his producer payroll, which shall show for each producer and new producer (a) the total delivery of milk with the average butterfat test thereof, (b) the amount of the advance payment to such producer and new producer made pursuant to section 1 of article VII, and (c) the deductions and charges made by the handler.

Sec. 2. Verification of Reports. - Each hendler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this article, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.

ARTICLE IV - CLASSIFICATION OF MILK

- Section 1. <u>Class Definitions. Milk received by each handler</u>, including milk produced by him, if any, shall be classified by the market administrator as follows:
- l. Class I milk shall be all milk sold or given away in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II or Class III milk.
- 2. Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- 3. Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2½ percent of total receipts of milk, and (b) as used to produce a milk product other than one of those specified in Class II.
- Sec. 2. Interhandler and Nonhandler Sales. Milk sold by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and the seller, that such milk was used in Class II or Class III, such milk shall be classified accordingly, subject to verification by the market administrator.
- Sec. 3. Computation of Butterfat in Each Class. For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as set forth in section 1, as follows:
- 1. Determine the total pounds of butterfat received as follows:

 (a) multiply the weight of the milk received from producers and new producers by the average butterfat test, (b) multiply the weight of the milk produced by him, if any, by the average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by the average butterfat test, and (d) add together the resulting amounts.
- 2. Determine the total pounds of butterfat in Class I milk as follows: (a) convert to quarts the quantity of milk or milk drinks, whether plain or flavored, sold or given away in the form of milk, and multiply by 2.15, (b) multiply the result by the average butterfat test of such milk; and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II and Class III milk computed pursuant to paragraphs 3 and 4 of this section is less than the

total pounds of butterfat received, computed in accordance with paragraph 1, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this paragraph.

- 3. Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the average butterfat test and (b) add together the resulting amounts.
- 4. Determine the total pounds of butterfat in Class III milk as follows: (a) Multiply the actual weight of the several products of Class III milk by the average butterfat test, (b) multiply the weight of a quantity of milk equal to the plant shrinkage, which shall not exceed 2-1/2 percent of total receipts, by the average butterfat test of milk received, and (c) add together the resulting amounts.
- 5. Determine the classification of the butterfat received from producers and new producers, as follows:
- (a) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (b) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.
- Scc. 4. Computation of Milk in Each Class. For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in article V apply, as follows:
- 1. Divide the total pounds of butterfat computed for each class in accordance with paragraph 5 of section 3 of article IV by the average test of all milk received from producers and new producers by such handler.

ARTICLE V - PRICES

Section 1. Class Prices. - Each handler shall pay at the time and in the manner set forth in article VII not less than the following prices for milk delivered at the handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk - \$2.75 per hundredweight: Provided, That where Class I milk is delivered to the residence of a relief client and paid for by a recognized relief agency the price shall be \$2.15 per hundred-

weight, and Provided further, that where Class I milk is sold outside the marketing area, the price shall be that which the market administrator ascertains is being paid to farmers for milk of equivalent use in the market where such milk is sold, subject to a reasonable adjustment on account of transportation from the plant where such milk is received from producers to the plant where such milk is loaded on wholesale and retail routes.

Class II milk - \$2.00 per hundredweight.

Class III milk - The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, and add 30 percent thereof: Provided, That for a quantity of Class III milk not to exceed 10 percent of the Class I and Class II milk delivered by producers and new producers the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, plus 3 cents, multiplied by 4.

- Sec. 2. Computation of Value of Milk for Each Handler. For each delivery period, the market administrator shall compute the value of milk which each handler has received from producers, new producers, or an association of producers as follows:
- 1. Multiply the hundredweight of milk in each class, computed in accordance with section 4 of article IV. by the respective class price for 4-percent milk: Provided, That, if the average butterfat test of milk received from producers by such handler is more than 4 percent, there shall be added to the respective Class I and Class II prices for 4-percent milk, 4 cents per hundredweight, and to the Class III price for 4-percent milk, there shall be added an amount equal to 1/40 of the Class III price for each 1/10 of one percent of average butterfat content above 4 percent; and, if the average butterfat content of milk received from producers by such handler is less than 4 percent, there shall be subtracted from the Class I and Class II prices for 4-percent milk, 4 cents per hundredweight, and from the Class III price for 4-percent milk, there shall be subtracted an amount equal to 1/40 of the Class III price, for each 1/10 of one percent of average butterfat content below 4 percent.
 - 2. Add together the resulting amounts.
- 3. If, in the verification of reports from handlers, the market administrator discovers errors in the reports submitted by any handler or errors in payments to producers or new producers for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount of money necessary to correct any such errors.
 - Sec. 3. Notification to Each Handler of Value of Wilk .- On or

before the 13th day after the colse of each delivery period, the market administrator shall bill each handler for the value of milk computed in accordance with section 2.

ARTICLE VI - DETERMINATION AND ANNOUNCEMENT OF VALUES AND PRICES

- Section 1. Computation of Uniform Price. The market Administrator shall compute the uniform price per hundredweight of milk delivered during each delivery period as follows:
- I. Add together values of milk, as computed in section 2 of article V, for each handler who made the payments required by article VII.
- 2. Subtract from this sum the total amount to be paid pursuant to paragraph 2 of section 1 of article VIII.
- 3. Subtract, if the average test of all milk is greater than 4 percent butterfat, or add, if the average test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundred-weight of milk by the variance of such average test from 4 percent, and multiply the resulting amount by \$0.40.
 - 4. Add the cash balance, if any, in the settlement fund.
- 5. Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in paragraph 2.
 - 6. Subtract the fraction of a cent, if any.
- Sec. 2. Announcement of Price. On or before the beginning of the following delivery period, the market administrator shall notify each handler of the uniform price for milk and of the price for milk delivered by new producers, and shall make public announcement of the computation of the uniform price.

ARTICLE VII - PAYMENT FOR MILK

- Scction 1. Payment to Producers. On or before the 5th day after the end of each delivery period, each handler shall pay each producer and new producer, from whom he has received milk, \$1.00 per hundredweight for all milk delivered during the delivery period.
- Scc. 2. Payment to Producer-Settlement Fund. On or before the 17th day after the end of each delivery period, each handler shall pay to the marked administrator a check in the amount of the value of milk billed to him for said delivery period, pursuant to section 3 of article V, less the amount paid out in accordance with section 1, and less the

amount of the deductions; and charges itemized on his producer pay roll. The market administrator shall maintain a separate fund known as the producer-settlement fund, in which he shall deposit all checks of handlers received pursuant to this section.

ARTICLE VIII - PAYMENTS TO PRODUCERS FROM PRODUCER-SETTLEMENT FUND

- Section 1. <u>Calculation of Payments for Each Producer</u>.- For each delivery period the market administrator shall calculate the payment due each producer and new producer who delivered milk during said delivery period to a handler, who paid into the producer-settlement fund in accordance with article VII, as follows:
- 1. Multiply the hundredweight of milk delivered by each producer by the uniform price computed in accordance with section 1 of article VI; Provided, That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of one percent variance above or below 4 percent, 4 cents per hundredweight;
- 2. Multiply the total hundredweight of milk delivered by each new producer during said delivery period by the Class III price;

 Provided, That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of one percent variance above or below 4 percent, an amount per hundredweight equal to 1/40 of the Class III price;
- 3. Subtract, in each case, the amount of the advance payment made pursuant to section 1 of article VII, the charges and the deductions, if any, which have been made by the handler against each producer and new producer.
- Sec. 2. Payments. On or before the 20th day after the end of each delivery period, the market administrator shall pay to each cooperative association, authorized to receive payments due producers who market their milk through such association, or to an agent designated by such cooperative to receive such payments, the aggregate of payments calculated pursuant to section 1 of this article, for all producers and new producers certified to the marked administrator by such association as having authorized such association to receive such payments, and shall pay direct to each producer and new producer who has not been certified as having authorized such association to receive such payments the amount of the payment calculated pursuant to section 1.

ARTICLE IX - EXPENSE OF ADMINISTRATION

Section 1. Payment by Handlers. - As his prorata share of the expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler shall, with respect to all milk received from producers and

new producers or produced by him during the delivery period, pay to the market administrator on or before the 17th day after the end of each delivery period that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 13th day after the end of each delivery period by the market administrator.

ARTICLE X - AMENDMENT, SUSPENSION AND TERMINATION

Section 1. Termination. The Secretary may terminate this agreement whenever he finds that this agreement obstructs or does not tend to effectuate the declared policy of the Act.

This agreement shall, in any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

- Sec. 2. Effect of Amendment, Suspension, or Termination.— The amendment, suspension, or termination of any or all of the provisions of this instrument shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.
- Sec. 3. Power of the Market Administrator to Liquidate. Upon the suspension or termination of this instrument, the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.

ARTICLE XI - LIABILITY

Section 1. <u>Handlers.</u>— The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.

ARTICLE XII - ANTITRUST LAWS

Section 1. Antitrust Laws. Any exemption from the antitrust laws and any validation of any acts or things, which otherwise would have been unlawful, resulting from the execution of this agreement by the Secretary, shall not extend or be construed to extend further than is absolutely necessary for the purpose of carrying out the provisions of this agreement.

ARTICLE XIII - DURATION OF IMMUNITIES

Section 1. <u>Duration of Immunities.</u>— The benefits, privileges, and immunities conferred by virtue of this agreement shall cease upon its termination, except with respect to acts done under and during the existence of this agreement, and the benefits, privileges, and immunities conferred by this agreement upon any parties signatory hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this agreement.

ARTICLE XIV - AGENTS

Section 1. Agents. The Secretary may, by a designation in writing, name any person (not a party to this agreement), including any officer or employee of the Government, or name any bureau or division of the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this agreement.

ARTICLE XV - COUNTERPARTS AND ADDITIONAL PARTIES ...

- Section 1. Counterparts. This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument, as if all such signatures were obtained in one original.
- Sec. 2. Additional Parties. After this agreement first takes effect, any handler may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

ARTICLE XVI - SIGNATURES OF PARTIES

IN WITNESS WHEREOF, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

	Sig	Signature	
	By		
	Name	Title	
	Address		
test			
Date			

NOW, THEREFORE, Secretary of Agriculture, acting under the provisions of the Agricultural Marketing Agreement Act of 1937, which reenacts and amends certain provisions of Public No. 10. 73d Congress, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute this agreement under his hand and the official soal of the Department of Agriculture in the city of Washington, District of Columbia, on this day of 1938 and, pursuant to the provisions hereof, declares this agreement to be effective on and after 12:01 a.m., e.s.t., 1958.

Secretary of Agriculture.

RECORD OF MILK HANDLED DURING THE MONTH OF JANUARY 1938

as shown by his books and record	that to the best of his knowledge, s, he handled during the month of redweight of milk covered by this e Cincinnati, Ohio, marketing area.
• • • • • •	SEAL(Signed)
	BY
knows the contents thereof and th	, being duly sworn, deposes and ing statement by him subscribed and ant the same are true and correct to
the best of his knowledge and bel	Notary Public

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AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS TO BE EXECUTED BY ALL SIGNERS

We, the undersigned, hereby authorize E. W. Gaumnitz to consent on our behalf to the correction of any typographical errors which the Agricultural Adjustment Administration may consider it advisable to make in the Marketing Agreement Regulating the Handling of Milk in the Cincinnati Marketing Area.

Date	Firm Name	
*	Name	Title -Seal (If Corporation
Corporation	n only	
CERTIFICATE OF	RESOLUTION	
At a duly convened meeting of	the Board of Dire	etors of
b.	held at_	
on the	day	of
1938, the following resolution was add RESOLVED, that shall become a party to the Marketing		ting the Handling
of Milk in the Cincinnati Marketing Ameeting, and it is further RESOLVED,	rea, as read and	
		(title
and by, and hereby are authorized and dire a counterpart of said agreement attack Agriculture, together with an authorized correct typographical errors.	ned hereto, to th	e Secretary of
I,		Secretary of
this is a true and correct copy of a named meeting, as said resolution appearance.	resolution adopte	
-	Address of fir	m SEAL

Section 922.1 <u>Definitions</u>. (a) <u>Terms</u>. The following terms shall have the following meanings:

- (1) The term "Secretary" means the Secretary of Agriculture of the United States.
- (2) The term "Cincinnati marketing area," hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.
- (3) The term "person" means any individual, partnership, corporation, association, or any other business unit.
- (4) The term "producer" means any person who produces milk which is delivered to the plant of a handler from which milk is sold in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not sold milk to a handler for a period of 30 days prior to the effective date heroof but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months following the date of such first delivery to a handler, after which he shall be known as a producer.
- (5) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all or a portion of which milk is sold as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.
 - (6) The term "delivery period" means any calendar month.
- (7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.
- (8) The term "market administrator" means the agency which is described in Sec. 922.2 for the administration hereof.
- Sec. 922.2 Market administrator. (a) <u>Designation</u>. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.
 - (b) Powers. The market administrator shall:

- (1) Administer the terms and provisions hereof:
- (2) Report to the Secretary complaints of the violations of the provisions hereof.
 - (c) Duties. The market administrator shall:
- (1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary:
- (2) Pay out of the funds provided by Sec. 922.9 the cost of his bond, his own compensation, and all other expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of his office;
- (3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Socretary may designate;
- (4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 922.3 or (b) made payments pursuant to Sec. 922.7 and Sec. 922.9; and
- (5) Promptly verify the information contained in the reports submitted by handlers.
- Sec. 922.3 Reports of handlers. (a) Submission of reports. Each handler shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:
- (1) On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.
- (2) Within 10 days after the market administrator's request with respect to any producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.

- (3) On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total delivery of milk with average butterfat test thereof, (b) the amount of the advance payment to such producer and new producer made pursuant to Sec. 922.7(a), and (c) the deductions and charges made by the handler.
- (4) On or before the 5th day after the end of each delivery period, the sale or disposition of Class I or Class II milk outside the marketing area as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk is shipped, (f) the price per hundredweight to be paid to producers for such milk, and (g) such other information with respect thereto as the market administrator may require.
- (b) Verification of reports. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.
- Sec. 922.4 Classification of milk. (a) Class definitions. Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator as follows:
- (1) Class I milk shall be all milk disposed of in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II or Class III milk.
- (2) Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- (3) Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2-1/2 percent of total receipts of milk, and (b) as used to produce a milk product other than one of those specified in Class II.
- (b) <u>Interhandler and nonhandler sales</u>. Milk sold or delivered by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was used in Class II or Class III, such milk shall be classified accordingly, subject to verification by the market administrator.

- (c) Computation of butterfat in each class. For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as set forth in paragraph (a) of this section, as follows:
- (1) Determine the total pounds of butterfat received as follows:
 (a) multiply the weight of the milk received from producers and new producers by the average butterfat test, (b) multiply the weight of the milk produced by him, if any, by the average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by the average butterfat test, and (d) add together the resulting amounts.
- (2) Determine the total pounds of butterfat in Class I milk as follows: (a) convert to half pints the quantity of milk or milk drinks, whether plain or flavored, disposed of in the form of milk, and multiply by 0.5375, (b) multiply the result by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II and Class III milk computed pursuant to subparagraphs (3) and (4) of this paragraph is less than the total pounds of butterfat received, computed in accordance with subparagraph (1), of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this subparagraph.
- (3) Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of the several products of Class II milk by the average butterfat test and (b) add together the resulting amounts.
- (4) Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of the several products of Class III milk by the average butterfat test, (b) divide the pounds of butterfat in the plant shrinkage, which shall not exceed 2-1/2 percent of total receipts, by the average butterfat test of milk received from producers and new producers, and (c) add together the resulting amounts.
- (5) Determine the classification of the butterfat received from producers and new producers, as follows:
- (i) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (ii) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

- (d) Computation of milk in each class. For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in Sec. 922.5 apply, as follows:
- (1) Divide the total pounds of butterfat computed for each class in accordance with Sec. 922.4(c)(5) by the average test of all milk received from producers and new producers by such handler.
- Sec. 922.5 Prices. (a) Class prices. Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk delivered at the handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk - \$2.75 per hundredweight: Provided, That where Class I milk is delivered to the residence of a relief client and paid for by a recognized relief agency the price shall be \$2.15 per hundredweight.

Class II milk - \$2.00 per hundredweight.

Class III milk - The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, and add 30 percent thereof: Provided, That for a quantity of Class III milk not to exceed 10 percent of the Class I and Class II milk delivered by producers and new producers the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, plus 3 cents, multiplied by 4.

- (b) Sales outside the marketing area. The respective prices for Class I milk and Class II milk set forth in paragraph (a) of this section shall not apply to milk disposed of in such classes outside the marketing area. However, the market administrator, in computing the uniform price for each handler pursuant to Sec. 922.5(c), shall determine the value of such milk by applying the prices per hundredweight which the handler has reported, pursuant to Sec. 922.3(a)(4): Provided, That no price so reported shall be used if such price is less than the Class III price set forth in Sec. 922.5(a).
- (c) Computation of value of milk for each handler. For each delivery period, the market administrator shall compute the value of milk which each handler has received from producers, new producers, or an association of producers as follows:
- (1) Multiply the hundredweight of Class I and Class II milk disposed of in the marketing area by the respective class price for 4 percent milk and multiply the hundredweight of Class I and of Class II

milk disposed of outside the marketing area by the price reported pursuant to Sec. 922.3(a)(4): Provided, That if the average butterfat test of milk received from producers by such handler is more than 4 percent, there shall be added to each of the prices used in this subparagraph 4 cents per hundredweight for each one-tenth of 1 percent of average butterfat content above 4 percent, and if the average butterfat test of milk received from producers by such handler is less than 4 percent, there shall be subtracted 4 cents per hundredweight for each one-tenth of 1 percent of average butterfat content below 4 percent;

- (2) Multiply the hundredweight of Class III milk by the Class III price: Provided, That if the average butterfat test of milk received from producers by such handler is more than 4 percent there shall be added to the Class III price an amount per hundredweight equal to 1/40 of the Class III price for each one-tenth of 1 percent of average butterfat content above 4 percent, and if the average butterfat content of milk received from producers is less than 4 percent there shall be subtracted from the Class III price an amount per hundredweight equal to 1/40 of the Class III price for each one-tenth of 1 percent of average butterfat content below 4 percent:
 - (3) Add together the resulting amounts.
- (4) If, in the verification of reports from handlers, the market administrator discovers errors in the reports submitted by any handler or errors in payments to producers or new producers for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount of money necessary to correct any such errors.
- (d) Notification to each handler of value of milk. On or before the 13th day after the close of each delivery period, the market administrator shall bill each handler for the value of milk computed in accordance with paragraph (c) of this section.
- Sec. 922.6 Determination and announcement of values and prices.

 (a) Computation of uniform price. The market administrator shall compute the uniform price per hundredweight of milk delivered during each delivery period as follows:
 - (1) Add together values of milk, as computed in Sec. 922.5(c), for each handler who made payments required by Sec. 922.7,
 - (2) Subtract from this sum the total amount to be paid pursuant to Sec. 922.8(a)(2),
 - (3) Subtract, if the average test of all milk is greater than 4 percent butterfat, or add if the average test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundredweight

of milk by the variance of such average test from 4 percent, and multiply the resulting amount by \$0.40:

- (4) Add the cash balance, if any, in the settlement fund:
- (5) Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in subparagraph (2):
 - (6) Subtract the fraction of a cent, if any.
- (b) Announcement of price. On or before the beginning of the following delivery period, the market administrator shall notify each handler of the uniform price for milk and of the price for milk delivered by new producers, and shall make public announcement of the computation of the uniform price and of those prices reported pursuant to Sec. 922.3(a)(4).
- Sec. 922.7 Payment for milk. (a) Payment to producers. On or before the 5th day after the end of each delivery period, each handler shall pay each producer and new producer, from whom he has received milk, \$1.00 per hundredweight for all milk delivered during the delivery period.
- (b) Payment to producer-settlement fund. On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator a check in the amount of the value of milk billed to him for said delivery period, pursuant to Sec. 922.5(d), less the amount paid out in accordance with paragraph (a) of this section, and less the amount of the deductions, and charges itemized on his producer paywroll. The market administrator shall maintain in a separate fund, known as the producer-settlement fund, in which he shall deposit all checks of handlers received pursuant to this section.
- Sec. 922.8 Payments to producers from producer-settlement fund.

 (a) Calculation of payments for each producer. For each delivery period the market administrator shall calculate the payment due each producer and new producer, who delivered milk during said delivery period to a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows:
- (1) Multiply the hundredweight of milk delivered by each producer by the uniform price computed in accordance with Sec. 922.6(a): Provided, That if such milk is of an average butterfat content other than 4 percent there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight;
- (2) Multiply the total hundredweight of milk delivered by each new producer during said delivery period by the Class III price: Provided, That if such milk is of an average butterfat content other than

4 percent there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent an amount per hundredweight equal to 1/40 of the Class III price;

- (3) Subtract, in each case, the amount of the advance payment made pursuant to Sec. 922.7(a), the charges and the deductions, if any, which have been made by the handler against each producer and new producer.
- (b) Payments. On or before the 20th day after the end of each delivery period, the market administrator shall pay to each cooperative association, authorized to receive payments due producers who market their milk through such association, or to an agent designated by such cooperative to receive such payments, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such association as having authorized such association to receive such payments, and shall pay direct to each producer and new producer, who has not been certified as having authorized such association to receive such payments, the amount of the payment calculated pursuant to paragraph (a) of this section minus that amount per hundredweight which is determined pursuant to Sec. 922.10.
- Sec. 922.9 Expense of administration. (a) Payment by handlers. As his pro-rata share of the expenses which the Secretary finds will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler shall, with respect to all milk received from producers and new producers or produced by him during the delivery period, pay to the market administrator on or before the 17th day after the end of each delivery period that amount per hundred-weight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 13th day after the end of each delivery period by the market administrator.
- Sec. 922.10 Marketing services. (a) Deductions for marketing services. The market administrator shall deduct an amount not exceeding 4 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made direct, pursuant to Sec. 922.8(b), to those producers and new producers who do not market their milk through an association which has been certified to the market administrator as having been authorized by said producers to receive the payments due them. Such moneys shall be expended by the market administrator, or by an agent or agency employed by him, only for market information to, and for verification of weights, tests, and samples of milk received from said producers and new producers.

- Sec. 922.11 Amendment, suspension, and termination. (a) Effect of amendment, suspension or termination. The amendment, suspension, or termination of any or all of the provisions of this order shall not affect, waive, or terminate any right, duty, obligation, violation, or liability which shall have arisen, or may thereafter arise, in connection with any of the provisions herein.
- (b) Power of the market administrator to liquidate. Upon the suspension or termination of this order the powers and duties of the market administrator shall be continued for the purpose of permitting the market administrator then functioning, or such other person as the Secretary may designate, to: (1) reduce all assets to cash, (2) pay all costs of liquidation, (3) distribute all remaining cash on hand to the parties entitled to receive the same, and (4) ship all books and records to the Secretary for filing.
- Sec. 922.12 <u>Liability</u>. (a) <u>Handlers</u>. The liability of the handlers hereunder is several and not joint and no handler shall be liable for the default of any other handler.
 - N.B. In addition to the foregoing, the following provisions are proposed to be included in a marketing agreement.
- Sec. 922.13 Amendments. (a) Proposals. Amendment of any or all provisions hereof may at any time be proposed in writing by any handler signatory hereto by the Secretary. Any amendment proposed in writing by any one or more handlers signatory hereto shall be deposited with the market administrator who shall promptly mail the same to the Chief of the Dairy Section, Division of Marketing and Marketing Agreements, United States Department of Agriculture, Washington, D. C.
- Sec. 922.14 Antitrust laws. (a) Antitrust laws. Any exemption from the antitrust laws and any validation of any acts or things which otherwise would have been unlawful, resulting from the execution of this agreement by the Secretary, shall not extend or be construed to extend further than is absolutely necessary for the purpose of carrying out the provisions of this agreement.
- Sec. 922.15 Duration of immunities. (a) Duration of immunities. The benefits, privileges, and immunities conferred by virtue of this agreement shall cease upon its termination, except with respect to acts done under and during the existence of this agreement, and the benefits, privileges, and immunities conferred by this agreement upon any parties signatory hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this agreement.
- Sec. 922.16 Agents. (a) Agents. The Secretary may, by a designation in writing, name any person (not a party to this agreement), including any officer or employee of the United States Government, or name any bureau or division of the Department of Agriculture, to act as

his agent or representative in connection with any of the provisions of this agreement.

Sec. 922.17 Additional parties and counterparts. (a) Additional parties. After this agreement first takes effect, any handler may become a party to this agreement if a counterpart thereof is executed by him and by the Secretary. This agreement shall take effect, as to such handler, at such time as the Secretary may declare above his signature attached to such counterpart, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such handler.

(b) Counterparts. This agreement may be executed in multiple counterparts, and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument, as if all such signatures were obtained in one original.

UNITED STATES DEPARTMENT OF AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS Washington, D. C.

HOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE MARMETING AGREEMENT AND ORDER NO. 22 REGULATING THE HAND-LING OF MILK IN THE CITCINNATI, OHIO, MARKETING AREA.

WHEREAS, under section 8c of Title I of Public Act No. 10, 72d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture, hereinafter called the "Secretary," executed a marketing agreement and issued an order regulating the handling of milk in the Cincinnati, Ohio, marketing area, effective May 1, 1938; and

WHEREAS, the Cincinnati Sales Association and Cooperative Pure Milk Association have proposed certain amendments to said marketing agreement and said order; and

WHEREAS, the Market Administrator of said marketing agreement and said order has also proposed certain amendments to said marketing agreement and said order; and

WHEREAS, the Secretary has reason to believe that an amendment of said marketing agreement and said order will tend to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937; and

WHEREAS, under the aforesaid act, notice of hearing is required in connection with a proposal to amend an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon amendments to marketing agreements and orders;

MOW, THEREFORE, pursuant to said act and general regulations, notice is hereby given of a hearing to be held on said proposals to amend the marketing agreement and Order No. 22 regulating the handling of milk in the Cincinnati, Ohio, marketing area at Court Room No. 820, United States Post Office and Court House, Cincinnati, Ohio, beginning at 10:00 a.m., e.s.t., on March 27, 1939.

This public hearing is for the purpose of receiving evidence as to the nocessity for (1) making certain changes in the wording of said agreement and said order for the purpose of more effective administration thereof, (2) revising the method of pricing milk sold outside of the marketing area, (3) providing for a deduction to finance the rendition of marketing services to "non-members," (4) reviewing the class prices, and (5) making any other changes in said marketing agreement and order.

Copies of the proposed amendments to the said marketing agreement and the said order may be obtained from the Hearing Clerk, Office of the Solicitor, Room O310, South Building, United States Department of Agriculture, Washington, D. C., or may be there inspected.

/s/ H. A. Wallace Secretary of Agriculture

Dated: March 18, 1939 Washington, D. C.

UNITED STATES DEPARTMENT OF AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS

TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA



I hereby certify that this document is a true and correct copy of the said marketing agreement, as amended, as tentatively approved by the Secretary of Agriculture, April 22, 1939.

Hearing Clerk,

U. S. Department of Agriculture.

Dated: April 22, 1939.

Washington, D. C.

INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Handlers of milk who wish to enter into the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area with the Secretary of Agriculture should fill in and sign in accordance with the following instructions:

- 1. The agreement should be signed in the space provided for the signer's signature and address in section 922.14 just below the section headed "Signature of parties." The type of business organization which you represent, whether corporation, partnership, or individual, should be indicated with your signature. If your business is organized as a corporation you should be sure to impress the corporate seal at the left of your signature.
- 2. The record of milk handled during the month of February 1939 should be properly certified as indicated on page 13.
- 3. The authorization to correct typographical errors on page 12 should be signed.
- 4. If your business is a corporation the board of directors should pass a resolution, in the form attached to the agreement on page 12 authorizing the signing of this agreement.
- 5. In the case of partnerships and corporations the agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed the agreement should be returned to J. B. McCroskey, Room 427, 622 Broadway, Cincinnati, Ohio.

MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO. MARKETING AREA

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 12th day of November 1937, notice of a public hearing to be held at Cincinnati, Ohio, on the 29th day of November 1937, on a proposed marketing agreement and a proposed order, said hearing being reopened at Cincinnati, Ohio, on the 4th and 20th days of January 1938 and the 2nd day of February 1938 for the purpose of receiving additional evidence, and at said times and places conducted public hearings, at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after said hearing, the Secretary issued a tentatively approved marketing agreement on the 22nd day of March 1938; and

Whereas, the Secretary, having reason to believe that the execution of a marketing agreement, as amended, and the issuance of an order, as amended, with respect to the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 18th day of March 1939 notice of a public hearing to be held at Cincinnati, Ohio, which hearing was held on the 27th and 28th days of March 1939 on proposed amended provisions to the marketing agreement and to the order, and at said times and places conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed amended provisions to the marketing agreement and to the order; and

Whereas, the parties hereto, in order to effectuate the declared policy of said act, desire to enter into this marketing agreement, as amended,

NOW, THEREFORE, the parties signatory hereto (said parties being the handlers and the Secretary) agree:

Sec. 922.1 <u>Definitions</u>. (a) <u>Terms</u>. The following terms shall have the following meanings:

- (1) The term "Secretary" means the Secretary of Agriculture of the United States.
- (2) The term "Cincinnati, Ohio, marketing area," hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.
- (3) The term "person" means any individual, partnership, corporation, association, or any other business unit.
- (4) The term "producer" means any person who produces milk which is received at the plant of a handler from which milk is disposed of in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not disposed of milk to a handler for a period of 30 days prior to May 1, 1938, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months following the date of such first delivery to a handler, after which he shall be known as a producer.
- (5) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.
 - (6) The term "delivery period" means any calendar month.
- (7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.
- (8) The term "market administrator" means the agency which is described in Sec. 922.2 for the administration hereof.
- Sec. 922.2 Market administrator. (a) Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.
 - (b) Powers. The market administrator shall:

- (1) Administer the terms and provisions hereof; and
- (2) Report to the Secretary complaints of violations of the provisions hereof.
 - (c) Duties. The market administrator shall:
- (1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.
- (2) Pay, out of the funds provided by Sec. 922.9, the cost of his bond, his own compensation, and all other expenses which are necessarily incurred in the maintenance and functioning of his office.
- (3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.
- (4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 922.3 or (b) made payments pursuant to Sec. 922.7 and Sec. 922.9.
- (5) Promptly verify the information contained in the reports submitted by handlers.
- Sec. 922.3 Reports of handlers. (a) Submission of reports. Each handler shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:
- (1) On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, of any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.
- (2) Within 10 days after the market administrator's request with respect to each producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received.

- (3) On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total receipts of milk with the average butterfat test thereof, (b) the amount of the advance payment to such producer or new producer made pursuant to Sec. 922.7(a), and (c) the deductions and charges made by the handler.
- (4) On or before the 5th day after the end of each delivery period, the disposition of Class I milk outside the marketing area as follows: (a) the amount and the utilization of such milk, (b) the butter-fat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk was shipped, and (f) such other information with respect thereto as the market administrator may require.
- (b) Verification of reports. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.
- Sec. 922.4 Classification of milk. (a) Basis of classification. Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.
- (b) Classes of utilization. The classes of utilization of milk shall be as follows:
- (1) Class I milk shall be all milk disposed of in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II milk or Class III milk.
- (2) Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- (3) Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2-1/2 percent of total receipts of milk, and (b) as used to produce a milk product other than one of those specified in Class II milk.
- (c) Interhandler and nonhandler sales. Milk disposed of by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was used as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

- (d) Computation of butterfat in each class. For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as defined in paragraph (b) of this section, as follows:
- (1) Determine the total pounds of butterfat received as follows:
 (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by its average butterfat test, and (d) add together the resulting amounts.
- (2) Determine the total pounds of butterfat in Class I milk as follows: (a) convert to half pints the quantity of milk disposed of in the form of milk or milk drinks, whether plain or flavored, and multiply by 0.5375, (b) multiply the result by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs (3) and (4) of this paragraph is less than the total pounds of butterfat received, computed in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this subparagraph.
- (3) Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test and (b) add together the resulting amounts.
- (4) Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of each of the several products of Class III milk by its average butterfat test, (b) subtract the total pounds of butterfat in Class I milk and Class II milk computed pursuant to subparagraphs (2)(b) and (3) of this paragraph and the total pounds of butterfat computed pursuant to (a) of this subparagraph from the total pounds of butterfat computed pursuant to subparagraph (1) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed 2 1/2 percent of the total receipts of butterfat by the handler), and (c) add together the resulting amounts.
- (5) Determine the classification of the butterfat received from producers and new producers, as follows:
- (i) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (ii) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.

- (e) Computation of milk in each class. For each delivery period the market administrator shall compute for each handler the hundred-weight of milk in each class, which was received from producers and new producers and to which the prices set forth in Sec. 922.5 apply, as follows:
- (1) Divide the total pounds of butterfat computed for each class in accordance with paragraph (d)(5) of this section by the average test of all milk received from producers and new producers by such handler.

Sec. 922.5 Prices. (a) Class prices. Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk received at such handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk - \$2.35 per hundredweight: Provided, That where Class I milk is disposed of by the handler through a recognized relief agency the price shall be \$1.95 per hundredweight.

Class II milk - \$1.80 per hundredweight.

Class III milk - The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivcry period during which such milk was received, and add 30 percent thereof: Provided, That for Class III milk disposed of as butter the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of butterfat by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from reports submitted by handlers pursuant to Sec. 922.3(a), are less than 125 percent of the total quantity of butterfat disposed of in Class I milk and Class II milk by such handlers, computed pursuant to subparagraphs (2) and (3) of paragraph (d) of Sec. 922.4, the price last stated shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of the total quantity of milk received by the handler from producers and new producers which was disposed of as Class I milk and Class II milk, computed pursuant to Sec. 922.4(e)(1).

(b) Sales outside the marketing area. The price to be paid by handlers for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to the handler's plant outside the marketing area where such milk was loaded on wholesale and retail routes.

- (c) Computation of value of milk for each handler. For each delivery period the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:
- (1) Multiply the mundredweight of milk in each class, computed in accordance with Sec. 922.4(e)(1), by the respective class price for 4 percent milk: Provided, That if the average butterfat test of milk received from producers and new producers by such handler is more than 4 percent, there shall be added to the respective Class I and Class II prices for 4 percent milk, 4 cents per hundredweight, and to the respective prices for Class III milk as provided in Sec. 922.5(a) there shall be added an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content above 4 percent; and, if the average butterfat content of milk received from producers and new producers by such handler is less than 4 percent, there shall be subtracted from the respective Class I and Class II prices for 4 percent milk, 4 cents per hundredweight, and from the respective prices for Class III milk as provided in Sec. 922.5(a) there shall be deducted an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content below 4 percent.
 - (2) Add together the resulting amounts.
- (3) If, in the verification of reports submitted by the handler; the market administrator discovers errors in such reports which result in payments due the producer-settlement fund for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
- (d) Notification to each handler of value of milk. On or before the 13th day after the close of each delivery period the market administrator shall bill each handler for the value of milk computed in accordance with paragraph (c) of this section.
- Sec. 922.6 Determination and announcement of values and prices.

 (a) Computation of uniform price. The market administrator shall compute the uniform price per hundredweight of milk received by handlers during each delivery period as follows:
- (1) Add together the values of milk as computed in Sec. 922.5(c) for each handler who made the payments to the producer-settlement fund as required by Sec. 922.7(b).
- (2) Subtract from this sum the total amount to be paid pursuant to Sec. 922.8(a)(2).
- (3) Subtract, if the average butterfat test of all milk is greater than 4 percent, or add, if the average butterfat test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundredweight of milk by the variance of such average butterfat test from 4 percent, and multiply the resulting amount by \$0.40.

- (4) Add the cash balance, if any, in the producer-settlement fund.
- (5) Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in subparagraph (2).
 - (6) Subtract the fraction of a cent, if any.
- (b) Announcement of prices and transportation rates. On or before the beginning of the following delivery period the market administrator shall notify each handler of the uniform price for milk and of the prices for Class III milk, and shall make public announcement of the computation of the uniform price. From time to time the market administrator shall also publicly announce the amounts per hundredweight deducted by each handler from the payments made to producers and new producers pursuant to Sec. 922.8 for the transportation of milk from the farms of producers and new producers to such handler's plant or plants, as ascertained from reports submitted pursuant to Sec. 922.3(a)(3).
- Sec. 922.7 Payment for milk. (a) Payment to producers. On or before the 5th day after the end of each delivery period, each handler shall pay \$1.00 per hundredweight of milk to each producer and \$0.50 per hundredweight of milk to each new producer from whom he has received milk for all milk received during the delivery period.
- (b) Payment to producer-settlement fund. On or before the 17th day after the end of each delivery period, each handler shall pay to the market administraror the amount of money which represents the value of milk billed to him for such delivery period, pursuant to Sec. 922.5(d), less the amount paid out in accordance with paragraph (a) of this section, and less the amount of the deductions and charges authorized by the producer which are itemized on his producer pay roll. The market administrator shall maintain a separate fund, known as the producer-settlement fund, in which he shall deposit all payments of handlers received pursuant to this paragraph.
- Sec. 922.8 Payments to producers from producer-settlement fund.

 (a) Calculation of payments for each producer. For each delivery period the market administrator shall calculate the payment due each producer and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows:
- (1) Multiply the hundredweight of milk received from each producer by the uniform price computed in accordance with Sec. 922.6(a): Provided, That if such milk is of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundred-weight:

- (2) Multiply the total hundredweight of milk received from each new producer during said delivery period by the price for Class III milk not disposed of as butter, as provided in Sec. 922.5(a): Provided, That if such milk is of an average butterfat content other than 4 percent there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, an amount per hundredweight equal to 1/40 of the price for Class III milk not disposed of as butter;
- (3) Subtract, in each case, the amount of the advance payment made pursuant to Sec. 922.7(a), the charges and the deductions, if any, which each producer and new producer has authorized to be made by the handler.
- (b) Payments. On or before the 20th day after the end of each delivery period the market administrator shall pay, subject to the provisions of Sec. 922.10, to each cooperative association authorized to receive payments due producers or new producers who market their milk through such association, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such association as having authorized such association to receive such payment, and shall pay direct to each producer and new producer, who has not been certified as having authorized such association to receive such payments, the amount of the payment calculated pursuant to paragraph (a) of this section.
- Sec. 922.9 Expense of administration. (a) Payment by handlers. As his pro-rata share of the expenses which will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler, with respect to all milk received from producers and new producers, or produced by him, during the delivery period, shall pay to the market administrator, on or before the 17th day after the end of each delivery period, that amount per hundredweight, subject to review by the Secretary and not to exceed 2 cents per hundredweight, which is announced on or before the 13th day after the end of the delivery period by the market administrator.
- Sec. 922.10 Marketing services. (a) Deductions for marketing services. The market administrator shall deduct an amount not exceeding 4 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made pursuant to Sec. 922.8(b), with respect to those producers and new producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," for the purpose of performing for such producers and new producers the services set forth in paragraph (b) of this section.

- (b) Marketing services to be rendered. The moneys received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for only market information to, and for verification of weights, samples, and tests of milk received from producers and new producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to the review of the Secretary.
- Sec. 922.11 Effective time, suspension, or termination of marketing agreement, as amended. (a) Effective time. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.
- (b) Suspension or termination of marketing agreement, as amended. The Secretary may suspend or terminate this agreement, as amended, whenever he finds that this agreement, as amended, obstructs or does not tend to effectuate the declared policy of the act. This agreement, as amended, shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.
- (c) Continuing power and duty of the market administrator. If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: Provided, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.
- (1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.
- (d) Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owning at the time of such suspension or termination.

Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Sec. 922.12 <u>Liability</u>. (a) <u>Liability of handlers</u>. The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

Sec. 922.13 Counterparts and additional parties. (a) Counterparts of marketing agreement, as amended. This agreement, as amended, may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were obtained in one original.

(b) Additional parties to marketing agreement, as amended. After this agreement, as amended, first takes effect any handler may become a party to this agreement, as amended, if a counterpart thereof is executed by him and delivered to the Secretary. This agreement, as amended, shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement, as amended, shall then be effective as to such new contracting party.

Sec. 922.14 Signature of parties.

IN WITNESS WHEREOF, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

	Signature	
	Ву	
	Name	Title
	Address	
est	,	
Date		

AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS TO BE EXECUTED BY ALL SIGNERS

We, the undersigned, hereby authorize O. M. Reed to consent on our behalf to the correction of any typographical errors which may have been made in the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area. Date Firm name Title - Seal Name (If corporation) Corporation only CERTIFICATE OF RESOLUTION At a duly convened meeting of the board of directors of hold at on the _____ day of 1939, the following resolution was adopted: RESOLVED, That shall become a party to the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area, as read and explained to the meeting, and it is further RESOLVED, That be, and hereby are authorized and directed to sign, execute, and deliver a counterpart of said agreement, as amended, attached hereto, to the Secretary of Agriculture, together with an authorization naming O. M. Reed to correct typographical errors. , Secretary of do hereby certify that this is a true and correct copy of a resolution adopted at the above named meeting, as said resolution appears in the minutes thereof.

Address of firm

SEAL

RECORD OF MILK HANDLED

DURING THE MONTH OF FEBRUARY 1939

as shown by his books and records.	indredweight of milk covered by this
SEA	L(Signed)
ВУ	(pigited)
, b that he has read the foregoing sta	eing duly sworn, deposes and says tement by him subscribed and knows
the contents thereof and that the best of his knowledge and belief.	same are true and correct to the
	Notary Public

D'MI CMENNE

Docket No. A-111 0-111

Notice of hearing signed by the Secretary of Agriculture September 22, 1959.

UNITED STATES DEPARTMENT OF AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS

PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING
AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, threat of Agriculture
REGULATING THE HANDLING OF MILK IN THE CINCINNATI,
OHIO, MARKETING AREA. UPON WHICH THE SECRETARY OF
AGRICULTURE HAS BEEN REQUESTED TO HOLD A HEARING UNDER
THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

The K. T. O. Mil's Producers' Association, the Milk Producers' Union, and the Cooperative Pure Milk Association have presented to the Secretary petitions for a public hearing on a proposal to amend the tentatively approved marketing agreement, as amended, and the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, milk marketing area under the Agricultural Marketing Agreement Act of 1937. An amendment to provide a Class Tiprice increase is requested by each of the above associations. The attached amendment proposals relating to the individual-handler mool and the change in the butterfat differential are requested by the Market administrator for the purpose of clarifying the order from an administrative standpoint.

The Agricultural Marketing Agreement Act of 1937 authorizes the Secretary of Agriculture after due notice of and opportunity for hearing to enter into marketing agreements with, and to issue orders apolicable to, processors, producers, associations of producers, and others engaged in the handling of milk and its products in the current of interstate or foreign commerce, and authorizes the Secretary of Agriculture to call hearings whenever he has reason to believe that the issuance of an order and/or the execution of an agreement will tend to effectuate the declared policy of this act. In simple terms, as applied to milk, the declared policy of the act is to establish and maintain such orderly marketing conditions for nilk in interstate commerce as will establish prices for milk at a level which will give that milk a purchasing power with respect to articles that farmers buy equivalent to its purchasing power in a prescribed base period, after taking into account the available supplies of feed, the prices of feed, and other economic conditions affecting the demand for and the supply of milk.

In response to the petition of the above associations, the Secretary of Agriculture has called a hearing to be held in the Hotel Gibson at 10:00 a.m., e.s.t., September 28, 1939.

At the above time and place opportunity will be given for interested parties to present evidence as to each and every amendment proposal set forth below and as to other amendments which may be proposed

in the course of the hearings. It is suggested that each interested party, who so desires, carefully present all facts which he feels the Secretary of Agriculture should have in the record of the public hearing upon which to base a decision as to whether the said order and/or agreement should be amended. The best interests of a proponent or of an opponent of the amendment proposals will best be served by his presentation, concisely and adequately, of the relevant facts in his posession, reserving his arguments for filing in written form at the close of the hearing session.

The amendment proposals are set forth below. Their publication in this form is for the convenience of interested parties and is not to be considered as in any way signifying their approval by the Secretary of Agriculture. It is proposed that --

- 1. The class I price provided in Sec. 922.5(a) be increased.
- 2. The "market-wide" pool provided in Sec. 922.6 be discontinued and an "individual-handler" pool be substituted therefor. (The "market-wide" pool provides that each producer shall be paid the same blended price regardless of the use of milk by the handler to whom he delivers while the "individual-handler" pool provides that all producers delivering to the same handler shall receive a blended price based on the use of milk by such handler.)
- 3. The butterfat differential be changed from 4 cents per hundredweight to an amount equal to one-tenth the average price per pound of 92-score butter sold at wholesale on the Chicago market.
- 4. Sec. 922.5(b) be amended to establish a method of determining the price (or prices) of Class I milk sold outside the marketing area.
- 5. Add as paragraph (e) of Sec. 922.5 a provision to define the relationship in the pool of "emergency" supplies to the regular supply of milk received from producers.
- 6. Sec. 922.7(a) be amended to provide a method of correcting producer over payments when a payment made pursuant to such section exceeds the net amount due the producer for all milk delivered during the delivery period.

UNITED STATES DEPARTMENT OF AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS WASHINGTON, D. C.

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE MARKETING AGREEMENT AND ORDER NO. 22 REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING FREA.

WHEREAS, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture, hereinafter called the "Secretary", executed a marketing agreement and issued an order regulating the handling of milk in the Cincinnati, Ohio, marketing area, effective May 1, 1938; and

WHEREAS, the Secretary, on April 22, 1939, tentatively approved a marketing agreement, as amended, and, effective May 13, 1939, issued an order, as amended, both regulating the handling of milk in the Cincinnati, Ohio, marketing area; and

WHEREAS, the K. I. O. Milk Producers' Association, the Milk Producers' Union, and the Cooperative Pure Milk Association have proposed certain amendments to said tentatively approved marketing agreement, as amended, and said order, as amended: and

WHEREAS, the Secretary has reason to believe that an amendment of said tentatively approved marketing agreement, as amended, and said order, as amended, will tend to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937; and

WHEREAS, under the aforesaid act, notice of hearing is required in connection with a proposal to amend an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon amendments to marketing agreements and orders:

NOW, THEREFORE, pursuant to said act and general regulations, notice is hereby given of a hearing to be held on said proposals to amend the tentatively approved marketing agreement, as amended, and Order No. 22, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, at the Hotel Gibson, Cincinnati, Ohio, beginning at 10:00 a.m., e.s.t., on September 28, 1939.

This public hearing is for the purpose of receiving evidence as to the necessity for (1) making certain changes in the wording of said agreement and said order for the purpose of more effective administration thereof; (2) increasing the price of Class I milk; (3) revising the method of pricing milk sold outside of the marketing area: (4) substituting "individual-handler" pools for the present "market-wide" pool: (5) changing the butterfat differential; and (6) pricing so-called "emergency" milk. The first of the first of

" Copies of the proposed amendments to said tentatively approved marketing agreement, as amended, and said order, as amended, may be obtained from the Hearing Clerk, Office of the Solicitor, Room 0310 South Building, United States Department of Agriculture, Washington, D. 6. por may be theresinspected.

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H. A. WALLACE
Secretary of Agriculture

Dated: September 22, 1939
Washington, D. C.

Docket No. A-111 0-111

Motice of hearing signed by the Secretary of Agriculture September 22, 1939.

UNITED STATES DEFARTMENT OF AGRICULTURE DIVISION OF MARKETING AND MARKETING AGREEMENTS

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PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA, UPON WHICH THE SECRETARY OF AGRICULTURE HAS BEEN REQUESTED TO HOLD A HEARING UNDER THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

The K. I. O. Mil's Producers' Association, the Milk Producers' Union, and the Cooperative Pure Mil's Association have presented to the Secretary petitions for a public hearing on a proposal to amend the tentatively approved marketing agreement, as amended, and the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, wilk marketing area under the Agricultural Marketing Agreement Act of 1957. An amendment to provide a Class I price increase is reduced by each of the above associations. The attached amendment proposals relating to the individual-handler cool and the change in the buttorfat differential are requested by the Cooperative Pure Milk Association. Additional proposals are made by the market administrator for the purpose of clarifying the order from an administrative standpoint.

The Agricultural Marketing Agreement Act of 1937 authorizes the Secretary of Agriculture after due notice of and opportunity for hearing to enter into marketing agreements with, and to issue orders applicable to, processors, producers, associations of producers, and others. engaged in the handling of milk and its products in the current of interstate or foreign commerce, and authorizes the Socretary of Agriculture to call hearings whenever he has reason to believe that the issuance of an order and/or the execution of an agreement will tend to effectuate the declared policy of this act. In simple terms, as applied to milk, the declared policy of the act is to establish and maintain such orderly marketing conditions for mill in interstate commerce as will establish prices for milk at a level which will give that milk a purchasing power with respect to articles that farmers buy equivalent to its purchasing power in a prescribed base period, after taking into account the available supplies of feed, the prices of feed, and other economic conditions affecting the demand for and the supply of milk.

In response to the petition of the above associations, the Secretary of Agriculture has called a hearing to be held in the Hotel Cibson at 10:00 a.m., e.s.t., September 28, 1939.

At the above time and place opportunity will be given for interested parties to present evidence as to each and every amendment proposal set forth below and as to other amendments which may be proposed

in the course of the hearings. It is suggested that each interested party, who so desires, carefully present all facts which he feels the Secretary of Agriculture should have in the record of the public hearing upon which to base a decision as to whether the said order and/or agreement should be amended. The best interests of a proponent or of an opponent of the amendment proposals will best be served by his presentation, concisely and adequately, of the relevant facts in his posession, reserving his arguments for filing in written form at the close of the hearing session.

The amendment proposals are set forth below. Their publication in this form is for the convenience of interested parties and is not to be considered as in any way signifying their approval by the Secretary of Agriculture. It is proposed that --

- 1. The class I price provided in Sec. 922.5(a) be increased.
- 2. The "market-wide" pool provided in Sec. 922.6 be discontinued and an "individual-handler" pool be substituted therefor. (The "market-wide" pool provides that each producer shall be paid the same blended price regardless of the use of milk by the handler to whom he delivers while the "individual-handler" pool provides that all producers delivering to the same handler shall receive a blended price based on the use of milk by such handler.)
- 3. The butterfat differential be changed from 4 cents per hundredweight to an amount equal to one-tenth the average price per pound of 92-score butter sold at wholesale on the Chicago market.
- 4. Sec. 922.5(b) be amended to establish a method of determining the price (or prices) of Class I milk sold outside the marketing area.
- 5. Add as paragraph (e) of Sec. 922.5 a provision to define the relationship in the pool of "emergency" supplies to the regular supply of milk received from producers.
- 6. Sec. 922.7(a) be amended to provide a method of correcting producer over payments when a payment made pursuant to such section exceeds the net amount due the producer for all milk delivered during the delivery period.

Docket No. A-136 0-136

Notice of hearing signed by the Secretary of Agriculture

July 12, 1940

UNITED STATES DEPARTMENT OF AGRICULTURE SURPLUS MARKETING ADMINISTRATION

Dairy Division

PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA, UPON WHICH THE SECRETARY OF AGRICULTURE HAS BEEN REQUESTED TO HOLD A HEARING UNDER THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

The K.I.O. Milk Producers' Association, the Milk Producers' Union, and the Cooperative Pure Milk Association have presented to the Secretary petitions for a public hearing on a proposal to amend the tentatively approved marketing agreement, as amended, and the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, milk marketing area under the Agricultural Marketing Agreement Act of 1937. The attached "Amendments proposed by handlers" were submitted jointly by the Matthews Frechtling Dairy Company, Avondale Dairy, Beechwood Farms, G. H. Berling Inc., J. H. Berling Dairy, Blue Ribbon Dairy, Bosse Dairy, The Coors Bros. Company, The J. H. Fielman Dairy Company, August Hinnenkamp, Hollman Bros., The Hyde Park Dairy Company, Kaesemeyer & Sons Company, John C. Mandery & Sons, Moormeier Brothers Dairy Company, H. Mause Dairy, Henry Meyer & Sons, C. L. Miller Dairy Company, H. Miller Dairy, L. Meyers Dairy, Niehoff Dairy, J. T. Ruther & Sons Company, J. Sallis & Sons, J. Stemffly, J. Weber Dairy Company, Willson Dairy Products, H. Woebenhenberg Dairy Company, and the Woodmont Dairy Company.

The Agricultural Marketing Agreement Act of 1937 authorizes the Secretary of Agriculture after due notice of and opportunity for hearing to enter into marketing agreements with, and to issued orders applicable to, processors, producers, associations of producers, and others engaged in the handling of milk and its products in the current of interstate or foreign commerce, and authorizes the Secretary of Agriculture to call hearings whenever he has reason to believe that the issuance of an order and/or the execution of an agreement will tend to effectuate the declared policy of this act. In simple terms, as applied to milk, the declared policy of the act is to establish and maintain such orderly marketing conditions for milk in interstate commerce as will establish prices for milk at a level which will give that milk a purchasing power with respect to articles that farmers buy equivalent to its purchasing power in a prescribed base period, after taking into account the available supplies of feed, the prices of feed, and other economic conditions affecting the demand for and the supply of milk.

In response to the petition of the above associations, the Secretary of Agriculture has called a hearing to be held in the Netherlands-Plaza Hotel, Fifth and Race Streets, Cincinnati, Ohio, at 10:00 a.m., e.s.t., July 17, 1940.

At the above time and place opportunity will be given for interested parties to present evidence as to each and every amendment proposal set forth below. It is suggested that each interested party, who so desires, carefully present all facts which he feels the Secretary of Agriculture

should have in the record of the public hearing upon which to base a decision as to whether the said order and/or agreement should be amended. The best interests of a proponent or of an opponent of the amendment proposals will best be served by his presentation, concisely and adequately, of the relevant facts in his possession, reserving his arguments for filing in written form at the close of the hearing session. The publication of the amendment proposals in this form is for the convenience of interested parties and is not to be considered as in any way signifying their approval by the Secretary of Agriculture.

AMENDMENTS PROPOSED BY PRODUCERS

- 1. Add as Section 922.1 (a) (10) the following:
- (10) The term "Base Milk" means the quantity of milk calculated for each producer and cooperative association of producers pursuant to Sec. 922.3 (c).
 - 2. Add as Sec. 922.1 (a) (11) the following:
- (11) The term "Excess Milk" means the quantity of milk delivered by each producer and cooperative association of producers in excess of "Base Milk."
 - 3. Add as Sec. 922.1 (a) (12) the following:
- (12) The term "Cooperative Association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and exercise full authority in the sale of milk of its members.
 - 4. Delete Sec. 922.4 (e) (1) and substitute therefor the following:
- (1) Divide the total pounds of butterfat computed for each class in accordance with paragraph (d) (5) of this Section by .04.
- 5. Delete Sec. 922.5 (a) CLASS PRICES, and substitute therefor the following:
- (a) CLASS PRICES. Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk received at such handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I Milk - \$2.72 per hundredweight during the delivery periods of August, September, October, Movember, December, January, February, March, and April, and \$2.32 per hundredweight during the delivery periods of May, June, and July: Provided, That with respect to Class I milk disposed of by a handler through a recognized relief agency or under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$2.12 per hundredweight for delivery periods of August, September, October, November, December, January, February, March, and April, and \$1.92 per hundredweight for delivery periods of May, June, and July.

Class II Milk - \$2.00 per hundredweight for delivery periods of August, September, October, November, December, January, February, March, and April, and \$1.80 per hundredweight for the delivery periods of May, June, and July.

Class III Milk - The price per hundredweight which shall be calculated by the market administrator as follows: Multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add a percentage thereto for the various delivery periods according to the following schedule:

Delivery Period	Add Percentage
January	30%
February	30
March	30
April	15
May	1 5
June	15
July	30
August	30
September	40
October	40
November	40
December	40

Provided, That for a quantity of Class III milk disposed of as butter, not to exceed 10 percent of the Class I and Class II milk delivered to each individual handler by producers and new producers the price shall be the average price per period of 92-score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4.

- 6. Delete Sec. 922.5 (b) and substitute therefor the following:
- (b) SALES OUTSIDE THE MARKETING AREA. The price to be paid by handlers for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to a handler's or nonhandler's plant outside the marketing area where such milk was loaded on wholesale or retail routes.
 - 7. Delete Sec. 922.5 (c) (1) and substitute therefor the following:
- (1) Multiply the hundredweight of milk in each class, computed in accordance with Sec. 922.4 (e) (1) by the respective class price for 4 percent milk.

8. Delete Sec. 922.6 and substitute therefor the following:

Sec. 922.6, DETERMINATION AND ANNOUNCEMENT OF VALUES AND PRICES. (a) COMPUTATION OF UNIFORM EXCESS MILK PRICE.

- (1) The market administrator shall compute the uniform price per hundredweight of "Excess Milk" received by all handlers as follows: To the total value of all Class III milk disposed of as butter, as computed in Sec. 923.5 (c) of all handlers who made payments to the producer-settlement fund, add the value of sufficient Class III milk not disposed of as butter, to equal the total quantity of excess milk delivered by all producers, plus the total quantity of milk delivered by new producers, during the delivery period and divide the total of these values by the total pounds of butterfat contained in all excess milk delivered and all milk delivered by new producers, and multiply by 4.
- (b) COMPUTATION OF UNIFORM BASE PRICE. The market administrator shall compute the uniform price per hundredweight of base milk received by handlers during each delivery period as follows:
- (1) Add together the values of milk as computed in Sec. 922.5 (c) for each handler who made the payments to the producer-settlement fund as required by Sec. 922.7.
- (2) Subtract from this sum the amount calculated pursuant to Sec. 922.8 (a) (3).
- (3) Subtract from this sum the total value of all excess milk calculated by multiplying the total quantity of excess milk received from each producer or cooperative association of producers by the uniform excess price computed in accordance with Sec. 922.6 (a): Provided, That if such milk was of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below an amount per hundredweight equal to one-fortieth of the excess price.
- (4) Subtract, if the average butterfat test of all base milk received from regular producers or cooperative association of producers is greater than 4 percent, or add, if the average butterfat test of such milk is less than 4 percent, an amount computed as follows: Multiply the hundredweight of base milk by the variance of such average butterfat test from 4 percent and multiply the resulting amount by \$0.40 if the average price of butter, as described in Sec. 922.5 (a), was more than 30 cents, or by \$0.30 if such average price was 30 cents or less.
- (5) Add the cash balance, if any, in the producer-settlement fund.
- (6) Divide by the total hundredweight of base milk received from producers and cooperative associations of producers.
 - (7) Subtract the fraction of a cent, if any.
- (c) ANNOUNCEMENT OF PRICES AND TRANSPORTATION RATES. On or before the beginning of the following delivery period the market adminis-

trator shall notify each handler of the uniform base price for milk and of the price for excess milk, and shall make public announcement of the computation of the uniform base price. From time to time, the market administrator shall also publicly announce the amounts per hundredweight deducted by each handler from the payments made to producers, cooperative associations of producers and new producers pursuant to Sec. 922.8 for the transportation of milk from the farms of producers and new producers to such handler's plant or plants, as ascertained from reports submitted pursuant to Sec. 922.3 (a) (3).

9. Delete Sec. 922.8 and substitute therefor the following:

Sec. 922.8. PAYMENTS TO PRODUCERS, COOPERATIVE ASSOCIATIONS OF PRODUCERS AND NEW PRODUCERS FROM PRODUCER-SETTLEMENT FUND.

- (a) Calculation of payments for each producer, cooperative association of producers and new producers. For each delivery period the market administrator shall calculate the payment due each producer, cooperative association of producers and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows: (1) Multiply the hundredweight of base milk received from each producer and cooperative association of producers by the uniform base price computed in accordance with Sec. 922.6 (b): Provided, That if such milk was of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight when the average price of butter as described in Sec. 922.5 (a) was more than 30 cents, or 3 cents per hundredweight when such average price of butter was 30 cents or less.
- (2) Multiply the hundredweight of milk received from each producer and cooperative association of producers in excess of base milk by the uniform price for "Excess Milk" computed in accordance with Sec. 922.6 (a) (1): Provided, That if such milk was of an average butterfat content other than 4 percent there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, an amount per hundredweight equal to 1/40 of the price for excess milk.
- (3) Multiply the total hundredweight of milk received from each new producer during said delivery period by the "new producer price," calculated as follows: To the total value of all Class III milk disposed of as butter, as computed in Sec. 922.5 (c) of all handlers who made payments to the producer-settlement fund, add the value of sufficient Class III milk not disposed of as butter to equal the total quantity of excess milk delivered by all producers, plus the total quantity of milk delivered by new producers, during the delivery period and divide the total of these values by the total pounds of butterfat contained in all excess milk delivered and all milk delivered by new producers, and multiply by 4: Provided, That if such milk was of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, an amount per hundredweight equal to 1/40 of the price for excess milk.

- (4) Subtract in each case, the amount of advance payment made pursuant to Sec. 922.7 (a), the charges and the deductions, if any, which are made pursuant to Sec. 922.7 (b).
- (b) PAYMENTS. On or before the 20th day after the end of each delivery period, the market administrator shall pay, subject to the provisions of Sec. 922.10, to each cooperative association authorized to receive payments due producers or new producers who market their milk through such cooperative association, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such cooperative association to receive such payment, and shall pay direct to each producer and new producer, who has not been certified as having authorized such cooperative association to receive such payments, the amount of the payment calculated pursuant to paragraph (a) of this section.
- (c) DETERMINATION OF BASES. (1) Payment to producers and cooperative associations of producers at a uniform base price for base milk and a uniform excess price for excess milk and a uniform new producer price for new producer milk shall begin with the delivery period succeeding the first full delivery period after the effective date of this instrument. For the period prior to this time producers are to be paid at a uniform blend price as provided in Order No. 22 before this amendment. Any cooperative asso-Ciation which shall so notify the market administrator thirty (30) days before the first full delivery period following the effective date of this instrument or one full delivery period prior to the time of each succeeding calendar quarter, shall be treated as a single producer and from the first day of the following delivery period shall have the combined deliveries of all members of such cooperative association treated as a single unit, and should individual members of such cooperative association cease to market milk through such cooperative association and otherwise begin regular marketings of milk their bases shall not be deducted from the base allotment of such cooperative association.
- (2) PRODUCERS' INITIAL YEARLY BASE. (i) The market administrator shall determine a base allotment for each regular producer and cooperative association of producers, to be in effect for the balance of the calendar year of 1940, subject to quarterly adjustments, as provided in paragraph (c) (4) of this section, as follows: Divide the total milk delivered by each regular producer and cooperative association of producers during the delivery periods of September, October, and November, 1939, by the number of days on which such producer and cooperative association of producers delivered milk, and adjust the figure so determined by such percentage as will make the total of all such figures approximately equal to 125 percent of the daily average Class I and II milk sold during the delivery periods of September, October, and November, 1939, by all reporting handlers: Provided, That for a person who begins regular delivery of milk following the delivery period of September 1939, and prior to the end of the first full delivery period after the effective date of this instrument, the market administrator shall compute for each such person a daily base allotment. Any cooperative association which qualifies to be treated as a single producer shall have a base equal to the sum of the bases established pursuant to this paragraph for individuals who are members of such cooperative association.

- (ii) For each succeeding year the market administrator shall compute a daily base allotment, subject to quarterly adjustments, as provided in paragraph (c)(4) of this section for each regular producer and cooperative association of producers, to be effective for the following calendar year, as follows: Divide the total of the base milk delivered by each regular producer and cooperative association of producers for each delivery period for the 12 preceding delivery periods, prior to the last delivery period in the calendar year by the number of days in which such producers and cooperative associations of producers delivered milk in such delivery period and adjust the figure so determined by such percentage as will make the total of all such figures approximately equal 125 percent of the daily average Class I and II milk sold by all reporting handlers.
- (3) DETERMINATION OF DAILY BASE FOR NEW PRODUCERS. On or before the 25th day after the close of the second full delivery period after regular deliveries are first made by a new producer to a handler, the market administrator shall, upon receipt of certification from each such person that he is the sole owner of the herd and that none of the production of the herd is being delivered in the name of another person, compute for each new producer a daily base allotment, which shall be in effect for the remainder of the calendar year, as follows: Divide the total milk delivered for such period when he received the new producer price by the number of days on which deliveries were made, and adjust the figure so determined by a percentage so that the resulting figure will be in the same ratio to such producer's total deliveries as the ratio of the total Class I and Class II sales of all handlers is to the total deliveries of all milk during the month when regular deliveries are first made by a new producer to a handler.
- (4) DETERMINATION OF QUARTERLY BASE ADJUSTMENT. On or before the 25th day after the close of each calendar quarter, the market administrator shall compute an adjustment to the base allotment of each regular producer and cooperative association of producers if the total bases alloted to all producers and cooperative association of producers in the previous calendar quarter were in excess of 130% or less than 120% of the Class I and II sales for such quarter, as follows: Adjust the alloted base of each regular producer and cooperative association of producers by such a percentage as will make the total of all alloted bases equal to 125 percent of the Class I and II milk sold per day during the three delivery periods preceding the last delivery period in the calendar quarter by all reporting handlers: Provided, That increased adjustments shall apply only to those producers or cooperative association of producers who made deliveries in said quarter in an amount equal to or in excess of their base allotment.
- (5) PRODUCER'S DELIVERY PERIOD BASE. For each delivery period the base of each regular producer and cooperative association of producers shall be computed as follows: Multiply the daily base by the number of days in which deliveries are made.
- (6) TRANSFER OF BASE ALLOTMENTS. Daily base allotments of individual producers may not be transferred to other producers, except as provided in this paragraph and only then in the event that the producers involved notify the market administrator, in writing, within five (5) days, giving the facts and conditions of such change of status of the producers involved.

- (i) A producer with a base who, as tenant, rents a farm, may retain his base if he rents the farm for cash.
- (ii) A landlord who rents on shares is entitled to the entire base to the exclusion of the tenant if the landlord owns the entire herd, and the tenant is entitled to the entire base to the exclusion of the landlord if the tenant owns the entire herd on such farm. If such tenant—landlord relationship is terminated, the base will be divided between the tenant and landlord according to the ownership of the cattle as may be shown.

(iii) A producer who voluntarily ceases to market milk for fluid consumption in the marketing area for a period of more than two full delivery periods shall lose his base and, in the event he resumes delivery shall be treated, for the purposes hereof, as a new producer.

(iv) Any producer who suffers a loss to his herd and base on account of some "Act of God" or from cooperating with a recognized Federal or State Bangs disease eradication program and who has so certified to the market administrator shall have his base retained for a reasonable time.

(v) No producer shall transfer his base to another producer except, should a producer sell his entire herd to one purchaser, who is a regular producer of record with the market administrator, the market administrator may transfer the base of such producer to the purchaser, provided a certified copy of the bill of sale is sent to the market administrator within five (5) days after such transfer.

(vi) If a producer who is a member of a cooperative association which has a cooperative association base leaves such a cooperative association and becomes a member of another cooperative association having a cooperative association base, no adjustment in the base of either cooperative association

shall be made at the time of the membership transfer.

(vii) If a producer terminates membership in a cooperative association having a cooperative association base, to become a member of a cooperative association not having a cooperative association base or, a nonmember producer, the market administrator shall establish a base for such producer which shall be equivalent to the base which would have been alloted to such producer pursuant to this section, had he not been a member of any cooperative association.

(viii) If a nonmember producer or a member of a cooperative association not having a cooperative association base becomes a member of a cooperative association having a cooperative association base, he shall lose his base as an individual and no adjustment shall be made to the base of the cooperative association having a cooperative association base, of which the producer becomes a member.

(ix) In the event a cooperative association having a cooperative association base becomes disqualified or elects to discontinue its cooperative association base, such cooperative association shall lose its cooperative association base and each producer-member of such a cooperative association shall be given a base by the market administrator which shall be equivalent to the base which would have been alloted to such producer pursuant to this section, had he not been a member of any cooperative association.

AMENDMENTS PROPOSED BY HANDLERS

l. Delete from Sec. 922.5(a) the paragraph relative to the price of Class I milk and substitute therefor the following:

Class I Milk - Add to the price per hundredweight for milk of 4.0 percent butterfat content computed pursuant to the formula set forth

in section 1 of article VI of the marketing agreement for evaporated milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any, 70 cents per hundredweight for the months of August, September, October, and November; 55 cents per hundredweight for the months of December, January, February, March, and April; and 45 cents per hundredweight for the months of May, June and July: Provided, That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$1.65 per hundredweight during the delivery periods of August, September, October, and November; \$1.50 per hundredweight for the delivery periods of December, January, February, March, and April; and \$1.40 per hundredweight for the delivery periods of May, June, and July.

2. Delete from Sec. 922.5(a) the paragraph relative to the price of Class II milk and substitute therefor the following:

Class II Milk - \$1.60 per hundredweight.

- 3. Add to Sec. 922.5(b) the words "and Class II milk" following the words "Class I milk" wherever the latter words appear in such paragraph.
 - 4. Delete Sec. 922.5(c)(1) and substitute therefor the following:
- (1) Multiply the hundredweight of milk in each class, computed in accordance with Sec. 922.4(e)(1), by the respective class price for 4.0 percent milk: Provided. That if the average butterfat test of milk received from producers and new producers by such handler is more than 4.0 percent, there shall be added to the respective Class I and Class II prices for 4.0 percent milk, 4 cents per hundredweight if the average price of butter described in Sec. 922.5(a) was more than 30 cents, or 3 cents per hundredweight if such average price of butter was 30 cents or less, and to the respective prices for Class III milk as provided in paragraph (a) of this section there shall be added an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content above 4 percent; and, if the average butterfat content of milk received from producers and new producers by such handler is less than 4 percent, there shall be subtracted from the respective Class I and Class II prices for 4 percent milk, 4 cents per hundredweight if the average price of butter as described in Sec. 922.5(a) was more than 30 cents, or 3 cents per hundredweight if such average price of butter was 30 cents or less, and from the respective prices for Class III milk as provided in paragraph (a) of this section there shall be deducted an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content below 4 percent.

UNITED STATES DEPARTMENT OF AGRICULTURE SURPLUS MARKETING ADMINISTRATION Dairy Division

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA.

WHEREAS, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture, hereinafter called the "Secretary," tentatively approved, on April 22, 1939, a marketing agreement, as amended, and thereafter issued an order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, effective May 13, 1939; and

WHEREAS, amendment of the tentatively approved marketing agreement, as amended, was tentatively approved by the Secretary on November 4, 1939, and the Secretary issued an amendment to said order, as amended, effective November 24, 1939; and

WHEREAS, certain handlers, the K. I. O. Milk Producers Association, the Milk Producers Union, and the Cooperative Pure Milk Association have proposed certain amendments to said tentatively approved marketing agreement, as amended, and said order, as amended; and

WHEREAS, the Secretary has reason to believe that an amendment of said tentatively approved marketing agreement, as amended, and said order, as amended, will tend to effectuate the declared policy of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937; and

WHEREAS, under the aforesaid act, notice of hearing is required in connection with a proposal to amend an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for notice and opportunity for hearing upon amendments to marketing agreements and orders:

NOW, THEREFORE, pursuant to said act and general regulations, notice is hereby given of a hearing to be held on said proposals to amend the tentatively approved marketing agreement, as amended, and Order No. 22, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, at the Hotel Netherlands-Plaza, Cincinnati, Ohio, beginning at 10:00 a.m., e.s.t., on July 17th, 1940.

This public hearing is for the purpose of receiving evidence as to the necessity for (1) including a base-rating plan of payment in said agreement and said order, (2) revising the computation of the uniform price of milk, (3) revising the method of computing the quantity of milk in each class, (4) revising the class prices of milk, (5) revising the butterfat differential, (6) clarifying the provision relative to the pricing of milk sold outside the marketing area, and (7) revising the method of computing the value of milk for each handler, and as to the specific provisions which such amendments should contain.

Copies of the proposed amendments to said tentatively approved marketing agreement, as amended, and said order, as amended, may be obtained from the Hearing Clerk, Office of the Solicitor, Room O310 South Building, United States Department of Agriculture, Washington, D. C., or may be there inspected.

/s/ H. A. Wallace
Secretary of Agriculture

Dated: July 12, 1940

Washington, D. C.

UNITED STATES DEPARTMENT OF AGRICULTURE
DIVISION OF MARKETING AND MARKETING AGREEMENTS

TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

I hereby certify that this document is a true and correct copy of the said marketing agreement, as amended, as tentatively approved by the Secretary of Agriculture, November 4, 1939.

Hearing Clerk,

U. S. Department of Agriculture.

Dated: November 4, 1939

Washington, D. C.

INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Handlers of milk who wish to enter into the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area with the Secretary of Agriculture should fill in and sign in accordance with the following instructions:

- 1. The agreement should be signed in the space provided for the signer's signature and address in section 922.14 just below the section headed "Signature of parties." The type of business organization which you represent, whether corporation, partnership, or individual, should be indicated with your signature. If your business is organized as a corporation you should be sure to impress the corporate seal at the left of your signature.
- 2. The record of milk handled during the month of August 1939 should be properly certified as indicated on page 6.
- 3. The authorization to correct typographical errors on page 7 should be signed.
- 4. If your business is a corporation the board of directors should pass a resolution in the form attached to the agreement on page 7 authorizing the signing of this agreement.
- 5. In the case of partnerships and corporations the agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed the agreement should be returned to J. B. McCroskey, Room 427, 622 Broadway, Cincinnati, Ohio.

MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO. MARKETING AREA

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 12th day of November 1937, notice of a public hearing to be held at Cincinnati, Ohio, on the 29th day of November 1937, on a proposed marketing agreement and a proposed order, said hearing being reopened at Cincinnati, Ohio, on the 4th and 20th days of January 1938 and the 2nd day of February 1938 for the purpose of receiving additional evidence, and at said times and places conducted public hearings, at which all interested parties were afforded an opportunity to be heard on the proposed marketing agreement and the proposed order; and

Whereas, after said hearing, the Secretary issued a tentatively approved marketing agreement on the 22nd day of March 1938; and

Whereas, the Secretary, having reason to believe that the execution of a marketing agreement, as amended, and the issuance of an order, as amended, with respect to the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 18th day of March 1939 notice of a public hearing to be held at Cincinnati, Ohio, which hearing was held on the 27th and 28th days of March 1939 on proposed amended provisions to the marketing agreement and to the order, and at said times and places conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposed amended provisions to the marketing agreement and to the order; and

Whereas, after said March 1939 hearing, the Secretary issued a tentatively approved marketing agreement, as amended on the 22nd day of April 1939; and

Whereas, the Secretary having reason to believe that the execution of an amendment to said tentatively approved marketing agreement,

as amended, and to the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave on the 22nd day of September 1939 notice of a public hearing to be held at Cincinnati, Ohio, which hearing was held on the 28th and 29th days of September 1939 on an amendment to said marketing agreement and said order, and at said times and place conducted public hearings at which all interested parties were afforded an opportunity to be heard on the proposal to amend the said marketing agreement and said order, and

Whereas, the parties hereto, in order to effectuate the declared policy of said act, desire to enter into this marketing agreement, as amended.

NOW, THEREFORE, the parties signatory hereto (said parties being the handlers and the Secretary) agree that:

- (a) The terms and provisions of Sec. 922.1 through Sec. 922.13 of the marketing agreement, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, as tentatively approved by the Secretary on April 23, 1939, except as herein provided, shall be the provisions of this marketing agreement as if set out in full herein; and
 - (b) The said provisions be and are hereby amended as follows:
- 1. Delete Sec. 922.1(a)(4) and substitute therefor the following:
- (4) The term "producer" means any person who produces milk which is received at the plant of a handler from which milk is disposed of in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not disposed of milk to a handler for a period of 30 days prior to May 1, 1938, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months of regular delivery following the date of first delivery to a handler, after which he shall be known as a "producer."
 - 2. Add to Sec. 922.1(a)(5) the following:

This definition shall not be deemed to include any person from whom emergency milk is received.

- 3. Add as Sec. 922.1(a)(9) the following:
- (9) The term "emergency milk" means milk received by a handler

from sources other than producers or new producers under a permit to receive such milk issued to him by the proper health authorities.

- 4. Add as Sec. 922.3(a)(5) the following:
- (5) On or before the day such handler receives emergency milk, his intention to receive such milk.
 - 5. Add as Sec. 922.3(a)(6) the following:
- (6) On or before the 10th day after the end of each delivery period, the receipts of emergency milk, as follows: (a) the amount of such milk, (b) the date or dates upon which such milk was received during the delivery period, (c) the plant from which such milk was shipped, (d) the price per hundredweight paid, or to be paid, for such milk, (e) the utilization of such milk, and (f) such other information with respect thereto as the market administrator may request.
- 6. Delete Sec. 922.4(d)(1) and substitute therefor the following:
- (1) Determine the total pounds of butterfat received as follows:
 (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of the milk received from handlers, if any, by its average butterfat test, (d) multiply the weight of emergency milk, if any, by its average butterfat test, and (e) add together the resulting amounts.
 - 7. Add as Sec. 922.4(d)(5)(iii) the following:
- (iii) In the case of a handler who has received emergency milk during the delivery period, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat contained in emergency milk received.

- 8. Delete Sec. 922.5(a) and substitute therefor the following:
- (a) Class prices. Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk received at such handler's plant on the basis of milk of 4 percent butterfat content as follows:

Class I milk - \$2.75 per hundredweight during delivery periods prior to May 1, 1940, and thereafter \$2.35 per hundredweight: Provided, That with respect to Class I milk disposed of by the handler through a recognized relief agency or under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$2.15 per hundredweight during delivery periods prior to May 1, 1940, and thereafter \$1.95 per hundredweight.

Class II milk - \$1.80 per hundredweight.

Class III milk - The price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof: Provided, That for Class III milk disposed of as butter the price shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of butterfat, excepting that contained in emergency; milk, by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from reports submitted by handlers pursuant to Sec. 922.3(a), are less than 125 percent of the total quantity of butterfat disposed of in Class I milk and Class II milk by such handlers, computed pursuant to subparagraphs (2) and (3) of paragraph (d) of Sec. 922.4, the price last stated shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of the total quantity of milk received by the handler from producers and new producers which was disposed of as Class I milk and Class II milk, computed pursuant to Sec. 922.4(e)(1).

- 9. Delete Sec. 922.6(a)(3) and substitute therefor the following:
- (3) Subtract, if the average butterfat test of milk of producers is greater than 4 percent, or add, if the average butterfat test of such milk is less than 4 percent, an amount computed as follows: multiply the total hundredweight of milk by the variance of such average butterfat test from 4 percent, and multiply the resulting amount by \$0.40 if the average price of butter as described in Sec. 922.5(a) was more than \$0.30, or by \$0.30 if such average price of butter was \$0.30 or less.

10. Delete Sec. 922.7 and substitute therefor the following:

sec. 922.7 Payment for milk. (a) Payment to producers and new producers. On or before the 5th day after the end of each delivery period, each handler shall pay, with respect to all milk received during the delivery period, \$1.00 per hundredweight of milk to each producer and \$0.50 per hundredweight of milk to each new producer: Provided, That in the event the total amount of the deductions and charges authorized by any producer or new producer against payments due such producer or new producer for the delivery period next preceding is greater than the payment computed for such producer or new producer pursuant to Sec. 922.8(a)(1) and (2) with respect to milk received from such producer or new producer during such preceding delivery period, the handler may deduct from the payment required by the paragraph a sum equal to difference between such amounts.

- (b) Payment to producer-settlement fund. On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator the amount of money which represents the value of milk billed to him for such delivery period, pursuant to Sec. 922.5(d), less the amount paid out to each producer and new producer in accordance with paragraph (a) of this section, and less the amount of the deductions and charges authorized by such producer or new producer which are itemized on the handler's producer pay roll: Provided, That in the calculation of the total amount of such deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer or new producer shall not be greater than an amount which, when added to the payment made to such producer or new producer in accordance with paragraph (a) of this section (inclusive of the deductions and charges authorized by paragraph (a) of this section), will not exceed the total value of the milk received from such producer or new producer. The market administrator shall maintain a separate fund, known as the producer-settlement fund, in which he shall deposit all payments of handlers received pursuant to this paragraph.
 - 11. Delete Sec. 922.8(a) and substitute therefor the following:
- Sec. 922.8 Payments to producers from producer-settlement fund.

 (a) Calculation of payments for each producer and new producer. For each delivery period the market administrator shall calculate the payment due each producer and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows:
- (1) Miltiply the hundredweight of milk received from each producer by the uniform price computed in accordance with Sec. 922.6(a): Provided, That if such milk was of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight when the average price of butter as described in Sec. 922.5(a) was more than 30 cents, or 3 cents per hundredweight when such average price of butter was 30 cents or less;

- (2) Multiply the total hundredweight of milk received from each new producer during said delivery period by the price for Class III milk not disposed of as butter, as provided in Sec. 922.5(a): Provided, That if such milk was of an average butterfat content other than 4 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, an amount per hundredweight equal to 1/40 of the price for Class III milk not disposed of as butter;
- (3) Subtract, in each case, the amount of the advance payment made pursuant to Sec. 922.7(a), the charges and the deductions, if any, which are made pursuant to Sec. 922.7(b).

Sec. 922.14 Signature of parties.

IN WITNESS WHEREOF, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

	Signa	ature
	Ву	
	Name	Title
	Address	
ttest		
Date		
RE	CORD OF MILK HANDLED	
TITRING	THE MONTH OF AUGUST 1939	9

The undersigned certifies that to the best of his knowledge, as shown by his books and records, he handled during the month of August 1939 hundredweight of milk covered by this agreement, as amended, and marketed within the Cincinnati, Ohio, marketing area.

SEAL		
	(Signed)	

AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS TO BE EXECUTED BY ALL SIGNERS

our behalf to the correction of an been made in the Marketing Agraems of Milk in the Cincinnati, Ohio, A	ont, as Amended, Regulating t	may have
Date	Firm name	
T.		- Seal corporation)
Compore	ation only	appear maked words 107 mages
CERTIFICATE	OF RESOLUTION	
At a duly convened meeting	of the board of directors of	
	held at	
on the	day of _	anga adagang galang kerungag karangan daran 1800 1800 1800 180
RESOLVED, That shall become a party to the Market the Handling of Milk in the Cincir and explained to the meeting, and	ting Agreement, as Amended, Ranati, Ohio, Marketing Area,	as read
and		(title)
be, and hereby are authorized and a counterpart of said agreement, a Secretary of Agriculture, together to correct typographical errors.	as amended, attached hereto,	to the
Ι,	, se	cretary of
this is a true and correct copy of meeting, as said resolution appear	f a resolution adopted at the	certify tha above-named
	Address of firm	SEAL

, being duly sworn, deposes and says that he has read the foregoing statement by him subscribed and knows the contents thereof and that the same are true and correct to the best of his knowledge and belief.

Notary Public

1.94 D14Ma

Docket No. A059-14

Notice of hearing signed by the Acting Secretary of Agriculture

July 9, 1941

UNITED STATES DEPARTMENT OF AGRICULTURE SURPLUS MARKETING ADMINISTRATION Dairy Division

PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, AUG 7 1941 A REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA, UPON WHICH THE SECRETARY OF U.S. Magnetic of Agriculture has been requested to hold a hearing under THE AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

The Cincinnati Sales Association has presented to the Secretary a petition for a public hearing on a proposal to amend the tentatively approved marketing agreement, as amended, and the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, milk marketing area under the Agricultural Marketing Agreement Act of 1937. The Cooperative Pure Milk Association has also petitioned for a hearing to consider an increase in prices and an individual-handler plan of pooling. In addition, the Matthews-Frechtling Dairy Company has submitted certain proposed amendments for discussion. All of the proposed amendments are set forth below.

The Agricultural Marketing Agreement Act of 1937 authorizes the Secretary of Agriculture after due notice of and opportunity for hearing to enter into marketing agreements with, and to issue orders applicable to, processors, producers, associations of producers, and others engaged in the handling of milk and its products in the current of interstate or foreign commerce, and authorizes the Secretary of Agriculture to call hearings whenever he has reason to believe that the issuance of an amendment to an order and/or an agreement will tend to effectuate the declared policy of this act. In simple terms, as applied to milk, the declared policy of the act is to establish and maintain such orderly marketing conditions for milk in interstate cormerce as will establish prices for milk at a level which will give that milk a purchasing power with respect to articles that farmers buy equivalent to its purchasing power in a prescribed base period, after taking into account the available supplies of feed, the prices of feed, and other economic conditions affecting the demand for and the supply of milk.

In response to the petitions of the above associations, the Secretary of Agriculture has called a hearing to be held in the Hotel Gibson, 4th and Walnut Streets, Cincinnati, Ohio, at 10:00 a.m., e.s.t., July 21, 1941.

At the above time and place opportunity will be given for interested parties to present evidence as to each and every amendment proposal set forth below. It is suggested that each interested party, who so desires, carefully present all facts which he feels the Secretary of Agriculture should have in the record of the public hearing upon which to base a decision as to whether the said order and/or agreement should be amended. The best interests of a proponent or of an opponent of the amendment proposals will best be served by his presentation, concisely and adequately, of the relevant facts in his possession, reserving his arguments for filing in written form at the close of the hearing session. The publication of the amendment proposals in this form is for the convenience of interested parties and is not to be considered as in any way signifying their approval by the Secretary of Agriculture.

Amendments Proposed by the Cincinnati Sales Association

- 1. Delete Sec. 922.5(a)(1) and substitute therefor the following:
- (1) Class I milk \$3.00 per hundredweight: Provided, That with respect to Class I milk disposed of by a handler through a recognized relief agency or under a program approved by the Sccretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$1.80 per hundredweight.
 - 2. Delete Sec. 922.5(a)(2) and substitute therefor the following:
 - (2) Class II milk \$2.25 per hundredweight.

Amendments Proposed by the Cooperative Pure Milk Association.

- 1. Delete Sec. 922.6(a) and substitute therefor the following:
- Sec. 922.6 Computation and announcement of uniform base price. For each delivery period the market administrator shall compute for each handler the uniform base price per hundredweight of milk received by such handler as follows:
- (1) Subtract from the sum computed pursuant to Sec. 922.5(c)(2) the amounts calculated pursuant to Sec. 922.8(a)(2) and (a)(3);
- (2) Subtract, if the average butterfat test of all milk of such handler is greater than 4.0 percent, or add, if the average butterfat test of all milk of such handler is less than 4.0 percent, an amount computed as follows: Multiply the hundredweight of base milk of such handler by the variance of such average butterfat test from 4.0 percent and multiply the resulting amount by \$0.40 if the average price of butter, as described in Sec. 922.5(a), was more than 30 cents, or by \$0.30 if such average price of butter was 30 cents or less; and

(3) Divide by the total hundredweight of base milk received. The result shall be known as such handler's uniform price per hundred-weight for such delivery period for the base milk of his producers which contains μ .0 percent butterfat.

Amendments Proposed by the Matthews-Frechtling Dairy Company

- 1. Delete from Sec. 922.1(a)(4) the language of the proviso. Also, delete from the other provisions of the order all references to "new producers."
- 2. Delete from Sec. 922.4(b)(1) the words "or milk drinks, whether plain or flavored."
- 3. Delete from Sec. 922.4(b)(2) the words "and creamed cottage cheese."
- 4. Add to Sec. 922.4(b)(2), after the word "buttermilk," the phrase "and milk drinks, whether plain or flavored."
- 5. Delcte from Sec. 922.4(e) the phrase "prior to May 1, 1941."
 - 6. Delete paragraphs (f) and (g) from Sec. 922.4.
- 7. Add to Sec. 922.5(b) the words "and Class II milk" following the words "Class I milk."
 - 8. Delete from Sec. 922.5(c) the phrase "prior to May 1, 1941."
 - 9. Delete Sec. 922.5(c)(2).



UNITED STATES DEPARTMENT OF AGRICULTURE SURPLUS MARKETING ADMINISTRATION

> TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE - .. CINCINNATI, OHIO, MARKETING AREA

DAIRY DIVISION

I hereby certify that this document is a true and correct copy of the said marketing agreement, as amended, as tentatively approved by the Secretary of Agriculture, , 1940.

Hearing Clerk,

U. S. Department of Agriculture

Dated: November 4, 1940

Washington, D. C.

INSTRUCTIONS FOR SIGNING MARKETING AGREEMENT

(Please read carefully before signing)

Handlers of milk who wish to enter into the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area with the Secretary of Agriculture should fill in and sign in accordance with the following instructions:

- 1. The agreement should be signed in the space provided for the signer's signature and address in Sec. 922.14 just below the section headed "Signature of parties." The type of business organization which you represent, whether corporation, partnership, or individual, should be indicated with your signature. If your business is organized as a corporation you should be sure to impress the corporate seal at the left of your signature.
- 2. The record of milk handled during the month of June 1940 should be properly certified as indicated on page 21.
- 3. The authorization to correct typographical errors on page 20 should be signed.
- 4. If your business is a corporation the board of directors should pass a resolution in the form attached to the agreement on page 20 authorizing the signing of this agreement.
- 5. In the case of partnerships and other business units the agreement should be signed by persons authorized to represent the same, such authorization to be indicated.

When the above procedure has been completed the agreement should be returned to J. B. McCroskey, Room 427, 622 Broadway, Cincinnati, Ohio.

MARKETING AGREEMENT, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA

Whereas, under the terms and provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), the Secretary of Agriculture of the United States is empowered, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in such handling of any agricultural commodity or product thereof as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof; and

Whereas, the Secretary having reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area, would tend to effectuate the declared policy of said act, gave, on the 12th day of July 1940 notice of a public hearing to be held at Cincinnati, Ohio, on the 17th day of July on amendments to said marketing agreement and said order, said hearing being reopened at Cincinnati, Ohio, on the 11th day of September 1940 for the purpose of receiving additional evidence, and at said times and places conducted public hearings, at which all interested parties were afforded an opportunity to be heard on the proposed amendments to said marketing agreement and said order; and

Whereas, the parties hereto, in order to effectuate the declared policy of said act, desire to enter into this marketing agreement as amended:

NOW, THEREFORE, the parties hereto (said parties being the handlers and the Secretary) agree that:

Section 922.1 <u>Definitions</u>. (a) <u>Terms</u>. The following terms shall have the following meanings:

- (1) The term "Secretary" means the Secretary of Agriculture of the United States.
- (2) The term "Cincinnati, Ohio, marketing area," hereinafter called the "marketing area," means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.

- (3) The term "person" means any individual, partnership, corporation, association, or any other business unit.
- (4) The term "producer" means any person who produces milk which is received by a handler at a plant from which, under approval of the proper health authorities, milk is disposed of as milk in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not disposed of milk to a handler for a period of 30 days prior to May 1, 1938, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months of regular delivery following the date of first delivery to a handler, after which he shall be known as a producer.
- (5) The term "handler" means any person who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall not be deemed to include any person from whom emergency milk is received or any person who handles only milk of his own production.
 - (6) The term "delivery period" means any calendar month.
- (7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.
- (8) The term "market administrator" means the agency which is described in Sec. 922.2 for the administration hereof.
- (9) The term "emergency milk" means milk received by a handler from sources other than producers or new producers under a permit to receive such milk issued to him by the proper health authorities.
- (10) The term "base" means the quantity of milk calculated for each producer pursuant to Sec. 922.8(d).
- (11) The term "excess" means the quantity of milk received from each producer in excess of his base.
- (12) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

- Sec. 922.2 Market administrator. (a) Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.
 - (b) Powers. The market administrator shall:
 - (1) Administer the terms and provisions hereof; and
- (2) Report to the Secretary complaints of violations of the provisions hereof.
 - (c) Duties. The market administrator shall:
- (1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.
- (2) Pay, out of the funds provided by Sec. 922.9, the cost of his bond, his own compensation, and all other expenses which are necessarily incurred in the maintenance and functioning of his office.
- (3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.
- (4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 2 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 922.3 or (b) made payments pursuant to Sec. 922.7 and Sec. 922.9.
- (5) Promptly verify the information contained in the reports submitted by handlers.
- Sec. 922.3 Reports of handlers. (a) Submission of reports. Each handler shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:
- (1) On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the receipts of milk and cream at each plant from any other source, if any, (e) the utilization of all receipts of milk for the delivery period, and (f) the name and address of each new producer.
- (2) Within 10 days after the market administrator's request with respect to each producer and new producer for whom such information is not

in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received.

- (3) On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total receipts of base and excess milk with the average butterfat test thereof, (b) the amount of the advance payment to such producer or new producer made pursuant to Sec. 922.7(a), and (c) the deductions and charges made by the handler.
- (4) On or before the 5th day after the end of each delivery period, the disposition of Class I milk outside the marketing area as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk was shipped, and (f) such other information with respect thereto as the market administrator may request.
- (5) On or before the day such handler receives emergency milk, his intention to receive such milk.
- (6) On or before the 10th day after the end of each delivery period, the receipts of emergency milk, as follows: (a) the amount of such milk, (b) the date or dates upon which such milk was received during the delivery period, (c) the plant from which such milk was shipped, (d) the price per hundredweight paid, or to be paid, for such milk, (c) the utilization of such milk, and (f) such other information with respect thereto as the market administrator may request.
- (b) <u>Verification of reports</u>. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.
- Sec. 922.4 Classification of milk. (a) Basis of classification. Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.
- (b) Classes of utilization. The classes of utilization of milk shall be as follows:
- (1) Class I milk shall be all milk disposed of in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II milk or Class III milk.

- (2) Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- (3) Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed $2\frac{1}{2}$ percent of total receipts of milk from producers and new producers, and (b) as used to produce a milk product other than those specified in Class II milk.
- (c) Interhandler and nonhandler sales. Milk disposed of by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and seller, that such milk was used as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.
- (d) Computation of butterfat in each class. For each delivery period prior to May 1, 1941, the market administrator shall compute for each handler the butterfat in each class, as defined in paragraph (b) of this section, as follows:
- (1) Determine the total pounds of butterfat received as follows:

 (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of the milk and cream received from handlers, if any, by its average butterfat test, (d) multiply the weight of emergency milk if any, by its average butterfat test, (e) multiply the weight of milk and cream received from any other source, if any, by its average butterfat test, and (f) add together the resulting amounts.
- (2) Determine the total pounds of butterfat in Class I milk as follows: (a) convert to half pints the quantity of milk disposed of in the form of milk or milk drinks, whether plain or flavored, and multiply by 0.5375, (b) multiply the result by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs (3) and (4) of this paragraph is less than the total pounds of butterfat received, computed in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this subparagraph.
- (3) Determine the total pounds of butterfat in Class II milk as follows: (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test and (b) add together the resulting amounts.
- (4) Determine the total pounds of butterfat in Class III milk as follows: (a) multiply the actual weight of each of the several products of Class III milk by its average butterfat test, (b) subtract the total pounds of butterfat in Class I milk and Class II milk computed pursuant

to subparagraphs (2)(b) and (3) of this paragraph and the total pounds of butterfat computed pursuant to (a) of this subparagraph from the total pounds of butterfat computed pursuant to subparagraph (1) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed $2\frac{1}{2}$ percent of the total receipts of butterfat by the handler), and (c) add together the resulting amounts.

- (5) Determine the classification of the butterfat received from producers and new producers, as follows:
- (i) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (ii) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.
- (iii) In the case of a handler who has received emergency milk during the delivery period, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat contained in emergency milk received.
- (iv) Subtract from the total pounds of butterfat in each class the total pounds of butterfat, except butterfat in emergency milk, which were received from sources other than producers, new producers, or handlers and used in such class.
- (e) Computation of milk in each class prior to May 1, 1941. For each delivery period prior to May 1, 1941, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in Sec. 922.5 apply, as follows:
- (1) Divide the total pounds of butterfat computed for each class in accordance with paragraph (d)(5) of this section by the average test of all milk received from producers and new producers by such handler.
- (f) Computation of milk in each class after April 30, 1941. For each delivery period subsequent to April 30, 1941, the market administrator shall compute for each handler the amount of milk in each class, as defined in paragraph (b) of this section, as follows:

- (1) Determine the total pounds of milk (a) received from producers and new producers, (b) produced by him, if any, (c) received from other handlers, if any, (d) received as emergency milk, if any, (e) the hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler) received from any other source, if any, and (f) add together the resulting amounts.
- (2) Determine the total pounds of butterfat received as follows:
 (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of milk received from other handlers, if any, by its average butterfat test, (d) multiply the weight of emergency milk, if any, by its average butterfat test, (e) multiply the weight of milk and cream received from any other source, if any, by its average butterfat test, and (f) add together the resulting amounts.
- (3) Determine the total pounds of milk in Class I as follows:

 (a) convert to half pints the quantity of milk disposed of in the form of milk or milk drinks, whether plain or flavored, and multiply by 0.5375, (b) multiply the result by the average butterfat test of such milk and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs(4)(b) and (5)(b) of this paragraph, is less than the total pounds of butterfat received, computed in accordance with subparagraph (2) of this paragraph, an amount equal to the difference shall be divided by 4.0 percent and the resulting amount shall be added to the quantity of milk determined pursuant to (a) of this subparagraph.
 - (4) Determine the total pounds of milk in Class II as follows:
 (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test, (b) add together the resulting amounts, and (c) divide the result obtained in (b) of this subparagraph by 4.0 percent.
- (5) Determine the total pounds of milk in Class III as follows:
 (a) multiply the actual weight of each of the several products of Class III milk by its average butterfat test, (b) add together the resulting amounts, (c) subtract the total pounds of butterfat in Class I milk and Class II milk, computed pursuant to subparagraphs (3)(b) and (4)(b) of this paragraph, and the total pounds of butterfat computed pursuant to (b) of this subparagraph, from the total pounds of butterfat computed pursuant to subparagraph (2) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purposes of this paragraph (but in no event shall such plant shrinkage allowance exceed 2½ percent of the total receipts of butterfat by the handler), (d) add together the results obtained in (b) and (c) of this subparagraph, and (e) divide the sum obtained in (d) of this subparagraph by 4.0 percent.

- (6) Determine the classification of milk received from producers and new producers as follows:
- (i) Subtract pro rata out of each class the quantity of milk produced by such handler.
- (ii) Subtract from the total pounds of milk in each class the total pounds of milk which were received from other handlers and used in such class.
- (iii) Subtract pro rata out of each class the total pounds of emergency milk.
- (iv) Subtract from the total pounds of milk in each class the total pounds of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler), except emergency milk, received from sources other than producers, new producers, or handlers and used in such class.
- of milk from producers and new producers. (1) If the total utilization of milk in the various classes for any handler, as computed pursuant to paragraph (f) of this section, is less than the receipts of milk from producers and new producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and new producers and the total utilization of milk by classes for such handler.
- (2) If the total utilization of milk in the various classes for any handler, as computed pursuant to paragraph (f) of this section, is greater than the receipts of milk from producers and new producers, the market administrator shall decrease the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and new producers and the total utilization of milk by classes for such handler.
- Sec. 922.5 Prices. (a) Class prices. Each handler shall pay at the time and in the manner set forth in Sec. 922.7 not less than the following prices for milk received at such handler's plant, on the basis of milk of 4.0 percent butterfat content, as follows:
- (1) Class I milk \$3.00 per hundredweight for all delivery periods prior to May 1, 1941, and \$2.45 per hundredweight for all delivery periods subsequent to April 30, 1941: Provided, That with respect to Class I milk disposed of by a handler through a recognized relief agency or under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$2.15 per hundredweight for all delivery periods prior to May 1, 1941, and \$1.80 per hundredweight for all delivery periods subsequent to April 30, 1941.

- (2) Class II milk \$2.25 per hundredweight for all delivery periods prior to May 1, 1941, and \$1.80 per hundredweight for all delivery periods subsequent to April 30, 1941.
- (3) Class III milk Except as set forth in subparagraph (4) of this paragraph, the price per hundredweight which shall be calculated by the market administrator as follows: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.
- (4) In the case of Class III milk disposed of as butter the price per hundredweight shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of milk, excepting emergency milk, by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from reports submitted by handlers pursuant to Sec. 922.3(a), are less than 125 percent of the total quantity of milk disposed of as Class I and Class II milk by such handlers, computed pursuant to Sec. 922.4, the price set forth above shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of such Class I and Class II milk.
- (b) Price of milk disposed of outside the marketing area. The price to be paid by handlers for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to the plant outside the marketing area where such milk was loaded on wholesale and retail routes.
- (c) Computation of value of milk for each handler. (1) For each delivery period prior to May 1, 1941, the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:
- (i) Multiply the hundredweight of milk in each class, computed in accordance with Sec: 922:4(e)(1), by the respective class price for 4.0 percent milk: Provided, That if the average butterfat test of milk received from producers and new producers by such handler is more than 4.0 percent, there shall be added to the respective Class I and Class II prices for 4.0 percent milk, 4 cents per hundredweight, and to the respective prices for Class III milk as provided in paragraph (a) of this section there shall be added an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content above 4.0 percent; and, if the average butterfat content of milk received

from producers and new producers by such handler is less than 4.0 per cent, there shall be subtracted from the respective class I and Class II prices for 4.0 percent milk, 4 cents per hundredweight, and from the respective prices for Class III milk as provided in paragraph (a) of this section there shall be deducted an amount equal to 1/40 of such respective Class III prices, for each one-tenth of 1 percent of average butterfat content below 4.0 percent: And, provided further, That if such handler has received milk (or cream), except emergency milk, from sources other than producers, new producers or handlers, as referred to in Sec. 922.4(d)(5)(iv), and has disposed of such milk (or cream) other than as butter, there shall be added to the value of milk thus determined an amount computed as follows: multiply the hundredweight of such milk (or milk equivalent of cream) by the difference between the Class III price set forth in Sec. 922.5(a)(4) and the price applicable to the class in which it was disposed.

- (ii) Add together the resulting amounts.
- (iii) If, in the verification of reports submitted by the handler, the market administrator discovers errors in such reports which result in payments due the producer-settlement fund or the handler for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
- (2) For each delivery period subsequent to April 30, 1941, the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:
- (i) Multiply the hundredweight of milk in each class. computed in accordance with Sec. 922.4(f and g) by the respective class price for 4.0 percent milk: Provided, That if the average butterfat content of milk received from producers and new producers by such handler is more than 4.0 percent, there shall be added to each class price an amount equal to 1/40 of the price for Class III milk, as set forth in Sec. 922.5(a)(4), for each one-tenth of 1 percent of average butterfat content above 4.0 percent; and if the average butterfat content of milk received from producers and new producers by such handler is less than 4.0 percent, there shall be subtracted from each class price an amount equal to 1/40 of such price for Class III milk, for each onetenth of 1 percent of average butterfat content below 4.0 percent: And, provided further, That if such handler has received milk (or cream), except emergency milk, from sources other than producers, new producers, or handlers, as referred to in Sec. 922.4(f)(6)(iv) and has disposed of such milk (or cream) other than as butter, there shall be added to the value of milk thus determined an amount computed as follows: multiply the hundredweight of such milk (or milk equivalent of cream) by the difference between the Class III price set forth in Sec. 922.5(a)(4) and the price applicable to the class in which it was disposed. For the hundredweight of milk involved in any adjustment made pursuant to Sec. 922.4(g), the handler shall be debited or credited, as the case may be, at the class III price set forth in Sec. 922.5(a)(4).

- (ii) Add together the resulting amounts:
- (iii) If, in the verification of reports submitted by the handler, the market administrator discovers errors in such reports which result in payments due the producer-settlement fund or the handler for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
 - (d) Notification to each handler of value of milk. On or before the 13th day after the end of each delivery period, the market administrator shall bill each handler for the value of milk computed in accordance with this section.
 - Sec. 922.6 Computation and announcement of uniform base price. For each delivery period, the market administrator shall compute the uniform base price, as provided in paragraph (a) of this section.
 - (a) Computation of uniform base price. The market administrator shall compute the uniform price per hundredweight of base milk received by handlers during each delivery period as follows:
 - (1) Add together the values of milk as computed in Sec. 922.5(c) for each handler who made the payments to the producer-settlement fund as required by Sec. 922.7(b).
 - (2) Subtract from such sum the amounts calculated pursuant to Sec. 922.8(a)(2) and (a)(3).
 - (3) Subtract, if the average butterfat test of all milk is greater than 4.0 percent, or add, if the average butterfat test of such milk is less than 4.0 percent, an amount computed as follows:

Multiply the hundredweight of base milk by the variance of such average butterfat test from 4.0 percent, and multiply the resulting amount by \$0.40 if the average price of butter, as described in Sec. 922.5(a) was more than 30 cents, or by \$0.30 if such average price of butter was 30 cents or less.

- (4) Add the cash balance, if any, in the producer-settlement fund.
- (5) Divide by the total hundredweight of base milk received.
- (6) Subtract from the figure obtained in subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining a cash balance to provide against errors in reports and payments by handlers. The result shall be known as the uniform price per hundredweight for such delivery period for base milk of producers which contains 4.0 percent butterfat.
- (b) Announcement of prices and transportation rates. On or before the beginning of the following delivery period, the market administrator shall notify each handler of the uniform base price for milk, and of the

prices for Class III milk, and shall make public announcement of the uniform base price computation. From time to time, the market administrator shall also publicly announce the amounts per hundredweight deducted by each handler from the payments made to producers and new producers pursuant to Sec. 922.8 for the transporation of milk from the farms of producers and new producers to such handler's plant or plants, as ascertained from reports submitted pursuant to Sec. 922.3(a)(3).

- Sec. 922.7 Payment for milk. (a) Payment to producers and new producers. On or before the 5th day after the end of each delivery period, each handler shall pay, with respect to all milk received during the delivery period, \$1.00 per hundredweight of milk to each producer and \$0.50 per hundredweight of milk to each new producer. Provided, That in the event the total amount of the deductions and charges authorized by any producer or new producer against payments due such producer or new producer for the delivery period next preceding is greater than the payment computed for such producer or new producer pursuant to Sec. 922.8(a) with respect to milk received from such producer or new producer during such preceding delivery period, the handler may deduct from the payment required by this paragraph a sum equal to the difference between such amounts.
- (b) Payment to producer-settlement fund. On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator the amount of money which represents the value of milk billed to him for such delivery period, pursuant to Sec. 922.5(d), less the amount paid out to each producer and new producer in accordance with paragraph (a) of this section, and less the amount of the deductions and charges authorized by such producer or new producer which are itemized on the handler's producer pay roll: Provided, That in the calculation of the total amount of such deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer or new producer shall not be greater than an amount which, when added to the payment made to such producer or new producer in accordance with paragraph (a) of this section (inclusive of the deductions and charges authorized by paragraph (a) of this section), will not exceed the total value of the milk received from such producer or new producer. The market administrator shall maintain a separate fund, known as the producersettlement fund, in which he shall deposit all payments of handlers received pursuant to this paragraph.
- Sec. 922.8 Payments from producer-settlement fund. (a) Calculation of payments for each producer and new producer. For each delivery period, the market administrator shall calculate, subject to the provision of subparagraph (5) of this paragraph, the payment due each producer and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with Sec. 922.7, as follows:
- (1) Multiply the hundredweight of base milk received from each producer by the uniform base price computed in accordance with Sec. 922.6(a): Provided. That if the milk of such producer was of an average

butterfat content other than 4.0 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight of base milk if the average price of butter as described in Sec. 922.5(a) was more than 30 cents, or 3 cents per hundredweight if such average price of butter was 30 cents or less.

- (2) Multiply the hundredweight of excess milk received from each producer by the Class III price set forth in Sec. 922.5(a)(3): Provided, That if the milk of such producer was of an average butterfat content other than 4.0 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4.0 percent, 4 cents per hundredweight of excess milk if the average price of butter as described in Sec. 922.5(a) was more than 30 cents, or 3 cents per hundredweight if such average price of butter was 30 cents or less.
- (3) Multiply the hundredweight of milk received from each new producer by the price for Class III milk not disposed of as butter, as provided in Sec. 922.5(a)(3): Provided, That if such milk was of an average butterfat content other than 4.0 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4.0 percent, an amount per hundredweight equal to 1/40 of such price for Class III milk.
- (4) Subtract, in each case, the amount of the payment made pursuant to Sec. 922.7(a), and the charges and the deductions, if any, which are made pursuant to Sec. 922.7(b).
- (5) For the purpose of computing payments pursuant to this paragraph the aggregate producer membership of any cooperative association which elects to have a cooperative association base under paragraph (d) of this section shall be considered as a single producer.
- (b) Payments. On or before the 20th day after the end of each delivery period, the market administrator shall pay, subject to the provisions of Sec. 922.10, to each cooperative association authorized to receive payments due producers or new producers who market their milk through such cooperative association, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payments, and shall pay direct to each producer and new producer, who has not been certified as having authorized such cooperative association to receive such payments, the amount of the payments calculated pursuant to paragraph (a) of this section.
- (c) <u>Delivery period base</u>. For each delivery period the base of each producer shall be a quantity of milk calculated by the market administrator in the following manner: multiply the applicable figure, effective pursuant to paragraph (d) of this section, by the number of days on which milk was received from such producer during the delivery period: Provided, That if no figure is effective for any producer, who is not also a handler, take the percentage of the total milk received from him in bulk

by a handler during the period when he received the new producer price, which percentage is obtained by dividing the total Class I and Class II milk of all handlers by the total milk received from producers and new producers by such handlers during the delivery period when deliveries were first made by such producer to a handler.

- (d) Computation of daily base. For the purpose of calculating, pursuant to paragraph (c) of this section, the delivery period base of producers, the market administrator shall compute a daily base with respect to deliveries of milk in bulk to handlers by each producer in the manner set forth in this paragraph: Provided, That any cooperative association, which shall notify the market administrator in writing and shall submit to him a certified list of its member producers within 15 days after the effective date hereof, or one full delivery period prior to the first day of any calendar quarter, shall be allotted a base as a single producer, such initial base to be equal to the sum of the bases computed, pursuant to this paragraph, for persons who are producer members of such cooperative association and to be effective on the first day of the delivery period following such notification: And, provided further, That if any producer member of such cooperative association should cease to market milk through such cooperative association, his base shall not be deducted from the base allotted to such cooperative association:
- (1) Effective until the end of the calendar year 1941, subject to the adjustments provided in subparagraph (4) of this paragraph, divide the total milk received from such producer during the calendar months of September, October, and November, 1939, by the number of days on which milk was received from such producer, and adjust the figure so determined by such a percentage as will make the total of all such figures approximately equal to 125 percent of the daily average Class I and Class II milk disposed of during the calendar months of September, October, and November, 1939, by all handlers.
- (2) Effective for each calendar year subsequent to 1941, subject to the adjustments provided in subparagraph (4) of this paragraph, divide the total base milk received from such producer (including a cooperative association which chooses, pursuant to this paragraph, to be considered as a single producer) for each of the 12 calendar months immediately prior to December of the calendar year preceding that for which bases are to be computed pursuant to this subparagraph, by the number of days on which milk was received from such producer in such 12 months, and adjust the figure so determined by such a percentage as will make the total of all such figures approximately equal 115 percent of the daily average Class I and Class II milk disposed of during such 12 months by all handlers, as determined on the basis of Soc. 922.4(f and g).
- (3) On or before the 25th day after the close of the second full delivery period after regular milk deliveries are first made by a new producer to a handler, and upon receipt of certification from such producer that he is the sole owner of the herd producing such milk and that none of the deliveries from such herd is being received by a handler in the name of another person, the market administrator shall compute for

such producer a daily base which shall be in effect for the remainder of the then current calendar year, as follows: divide the total milk received by a handler from such producer during the period when he received the new producer price by the number of days on which such milk was received, and multiply the figure so determined by the percentage which the sum of the Class I and Class II milk reported by all handlers bears to their total receipts of milk during the calendar month when regular deliveries were first made by such now producer to a handler.

- (4) (i) On or before the 25th day after the end of each calendar quarter prior to May 1, 1941, the market administrator shall adjust the base of each producer if the total base deliveries of all producers during the first three of the four calendar months immediately preceding were in excess of 130 percent or less than 120 percent of the Class I and Class II milk disposed of by all handlers during such three months, as follows:

 Multiply the daily base of each producer by the percentage which will make the total of all such bases approximately equal to 125 percent of the daily average Class I and Class II milk disposed of by all handlers during such three months: Provided, That increases in base shall be allotted only to those producers whose deliveries in such three months were equal to or in excess of their bases.
- (ii) On or before the 25th day after the end of each calendar quarter subsequent to April 30, 1941, the market administrator shall adjust the base of each producer if the total base deliveries of all producers during the first three of the four calendar months immediately preceding were in excess of 120 percent or less than 110 percent of the Class I and Class II milk, as determined on the basis of Sec. 922.4(f and g), disposed of by all handlers during such three months, as follows: Multiply the daily base of each producer by the percentage which will make the total of all such bases approximately equal to 115 percent of the daily average Class I and Class II milk disposed of by all handlers during such three months: Provided, That increases in base shall be allotted only to those producers whose deliveries in such three months were equal to or in excess of their bases.

Bases adjusted pursuant to this subparagraph shall become effective on the first day of the new calendar quarter.

- (5) Base rules. The following rules shall be observed by the market administrator with respect to the allotment and administration of bases:
- (i) A producer who, as tenant, rents a farm, may be allotted a base if he rents the farm for cash.
- (ii) A landlord who rents on shares is entitled to the entire base to the exclusion of the tenant if the landlord owns the entire herd, and the tenant is entitled to the entire base to the exclusion of the landlord

if the tenant owns the entire herd on such farm: Provided, That a base allotted under a tenant and landlord relationship shall be a joint base and may be divided only if such relationship is terminated. If such tenant-landlord relationship is terminated, the base will be divided between the tenant and landlord according to such ownership of the cattle as may be shown.

- (iii) A producer who ceases deliveries of milk to a handler for more than 2 full calendar months shall forfeit his base and, in the event he thereafter commences deliveries of milk to a handler he shall receive a base computed in the manner provided in subparagraph (3) of this paragraph for the allotment of bases to new producers, and shall be treated for purposes of this section as if he were a new producer.
- (iv) Any producer who loses all or a portion of his herd on account of his cooperation with a recognized Federal or State Bang's disease eradication program and who has so certified to the market administrator shall retain his base for six months thereafter.
- (v) No producer shall be permitted to transfer his base to another producer, except that should a producer sell his entire herd to one purchaser, who is a producer of record with the market administrator and provide the market administrator with a certified copy of the bill of sale within five (5) days after such sale of herd, the market administrator shall transfer the base of such producer to such purchaser.
- (vi) In the event a producer who is a member of a cooperative association which has a cooperative association base leaves such cooperative association and becomes a member of another cooperative association also having a cooperative association base, no adjustment in the base of either cooperative association shall be made on account of the membership transfer.
- (vii) In the event a producer terminates his membership in a cooperative association having a cooperative association base to become a member of a cooperative association not having a cooperative association base, or to become a nonmember producer, the market administrator shall compute a base for such producer which shall be equivalent to the base which would be in effect for such producer, pursuant to this paragraph, had he not been a member of any cooperative association at the time of the original allotment of base.
- (viii) In the event a producer who is not a member of any cooperative association, or a producer who is a member of a cooperative association having a cooperative association base, becomes a member of a cooperative association having a cooperative association base, he shall forfeit his base as an individual and no adjustment, on account of such membership, shall be made to the base of the cooperative association, of which the producer becomes a member.

- (ix) In the event a cooperative association having a cooperative association base becomes ineligible to retain such base or elects to discontinue such base by giving written notice to the market administrator, such cooperative association shall forfeit such base and each producer member of such cooperative association shall be allotted a base by the market administrator which shall be equivalent to the base which would be in effect for such producer, pursuant to this paragraph, had he not been a member of any cooperative association at the time of original allotment of base.
- (x) In computing a base for any cooperative association, the market administrator shall first determine the names of those producers on the membership list submitted pursuant to this paragraph by such cooperative association which are not duplicated on the membership lists of any other producer organization by (1) requesting all other producer organizations which have not already done so to file certified lists of their membership and granting each organization a reasonable time to submit such a list, and (2) checking the names on the lists, submitted by such organizations within a reasonable period of time, against those on the list submitted by the cooperative association for which the base is being computed. The market administrator shall then eliminate from the base computations made for such cooperative association the milk of any producer whose name is duplicated in the list of any other producer organization, until the market administrator has made a determination, for the purpose of administrative action under this paragraph only, with respect to the association membership status of such producer, and shall allot such producer a base as a nonmember producer. If it is determined by the market administrator that such producer is a member of a cooperative association having a base, the base of such producer shall be added to the base of the cooperative association, effective on the first day of the delivery period in which the determination is made.
- Sec. 922.9 Expense of administration. (a) Payment by handlers. As his pro rata share of the expenses which will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler, with respect to all milk received from producers and new producers, or produced by him, during the delivery period, shall pay to the market administrator, on or before the 17th day after the end of each delivery period, that amount per hundredweight, not to exceed 2 cents, which is announced by the market administrator on or before the 13th day after the end of the delivery period.
- Sec. 922.10 Marketing services. (a) Deductions for marketing services. The market administrator shall deduct an amount not exceeding 4 cents per hundredweight of milk (the exact amount to be determined by the market administrator), from the payments made pursuant to Sec. 922.8(b), with respect to those producers and new producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," for the purpose of performing for such producers and new producers the services set forth in paragraph (b) of this section.

- (b) Marketing services to be rendered. The moneys received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information to, and for verification of weights, samples, and tests of milk received from producers and new producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to the review of the Secretary.
- Sec. 922.11 Effective time, suspension, or termination of marketing agreement, as amended. (a) Effective time. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.
- (b) Suspension or termination of marketing agreement, as amended. The Secretary may suspend or terminate this agreement, as amended, whenever he finds that this agreement, as amended, obstructs or does not tend to effectuate the declared policy of the act. This agreement, as amended, shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.
- (c) Continuing power and duty of the market administrator. If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: Provided, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.
- (1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.
- (d) Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected

pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Sec. 922.12 <u>Liability</u>. (a) <u>Liability of handlers</u>. The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

- Sec. 922.13 Counterparts and additional parties. (a) Counterparts of marketing agreement, as amended. This agreement, as amended, may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were obtained in one original.
- (b) Additional parties to marketing agreement, as amended. After this agreement, as amended, first takes effect any handler may become a party to this agreement, as amended, if a counterpart thereof is executed by him and delivered to the Secretary. This agreement, as amended, shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privilegos, and immunities conferred by this agreement, as amended, shall then be effective as to such new contracting party.

Sec. 922.14 Signature of parties.

IN WITNESS WHEREOF, the contracting handlers, acting under the provisions of the act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

·	Signature	
	By	
	Name	Title
	Address	
est		

AUTHORIZATION TO CORRECT TYPOGRAPHICAL ERRORS TO BE EXECUTED BY ALL SIGNERS

We, the undersigned, hereby authorize O. M. Reed to consent on our behalf to the correction of any typographical errors which may have been made in the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati. Ohio. Marketing Area. . Firm name . Title - Seal (If corporation) Corporation only CERTIFICATE OF RESOLUTION At a duly convened meeting of the board of directors of held at____ on the _____day of ____ 1940, the following resolution was adopted: RESOLVED, That shall become a party to the Marketing Agreement, as Amended, Regulating the Handling of Milk in the Cincinnati, Ohio, Marketing Area, as read and explained to the meeting, and it is further RESOLVED, That (title) be, and hereby are authorized and directed to sign, execute, and deliver a counterpart of said agreement, as amended, attached hereto, to the Secretary of Agricultur, together with an authorization naming O. M. Reed to correct typographical errors. , Secretary of do hereby certify that this is a true and correct copy of a resolution adopted at the abovenamed meeting, as said resolution appears in the minutes thereof.

Address of firm

SEAL

RECORD OF MILK HANDLED

DURING THE MONTH OF JUNE 1940

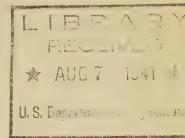
The undersigned certifies that to the best of his knowledge, as shown by his books and records, he handled during the month of June 1940hundredweight of milk covered by this agreement, as amended, and marketed within the Cincinnati, Ohio, marketing area.	
SEAL	
(Signed)	
BY r	
, being duly sworn, deposes and says contents thereof and that the same are true and correct to the best of his cnowledge and belief. Notary Public	



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UNITED STATES DEPARTMENT OF AGRICULTURE SURPLUS MARKETING ADMINISTRATION DAIRY DIVISION

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND ORDER NO. 22, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA.



Notice is hereby given of a hearing to be held at the Hotel Gibson, 4th and Walnut Streets, Cincinnati, Ohio, beginning at 10:00 a.m., e.s.t., on July 21, 1941, on proposed amendments to the tentatively approved marketing agreement, as amended, and to Order No. 22, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amonded and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

Proposed amendments have been submitted by the Cincinnati Sales Association to increase the price of Class I milk to \$3.00 per hundredweight and the price of Class II milk to \$2.25 per hundredweight.

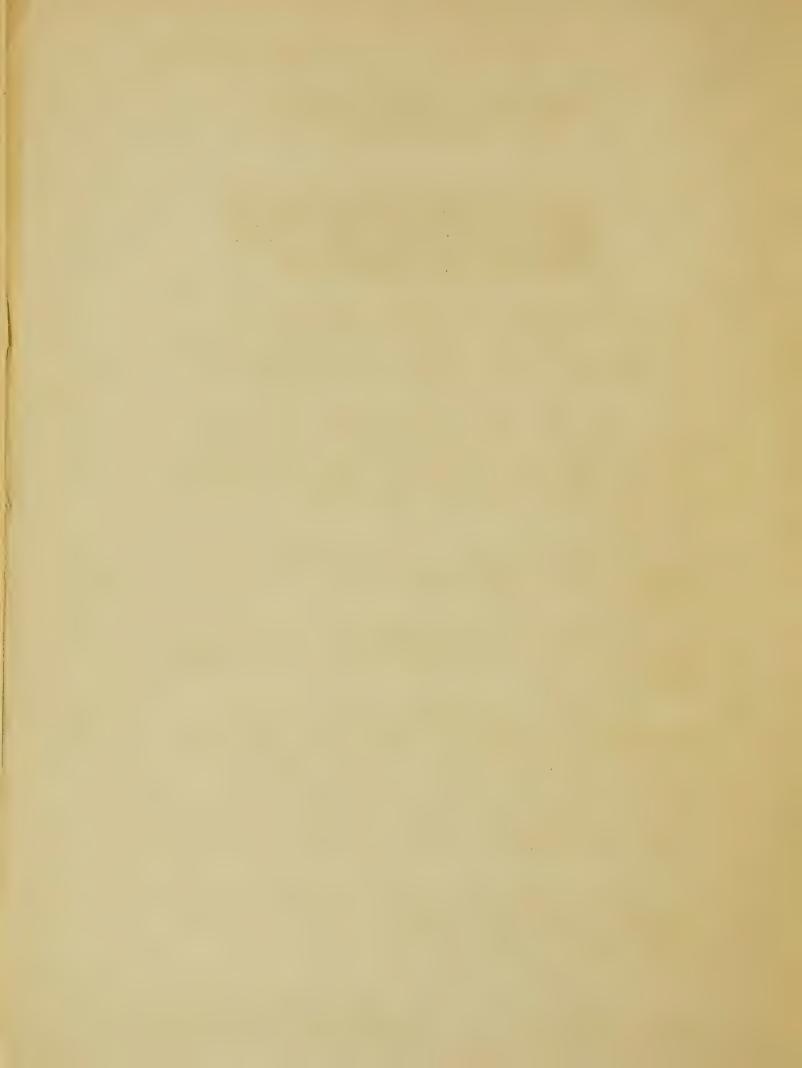
Amendments have been submitted by the Cooperative Pure Milk Association to amend the order so as to provide for an individual-handler plan of pooling instead of a market-wide equalization pool.

Amendments have been proposed by the MatthewsFrechtling Dairy to delete from the order all provisions
relative to new producers; place milk drinks, whether plain
or flavored, in Class II instead of Class I, and take
creamed cottage cheese out of Class II and place it in
Class III; provide for the computation of the volume of
Class I milk on a butterfat basis rather than on a milk
volume basis; and provide for the ascertainment of the price of
outside Class II milk in the same manner as outside Class I milk.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310, South Building, or may be there inspected.

Dated: July 9, 1941

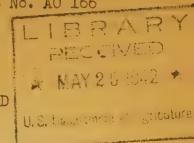
/s/ Paul H. Appleby
Acting Secretary of Agriculture



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UNITED STATES DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING ADMINISTRATION

NOTICE OF HEARING WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER REGULATING THE HANDLING OF MILK IN THE CINCINNATI, OHIO, MARKETING AREA



Notice is hereby given of a hearing to be held at the Hotel Gibson, Cincinnati, Ohio, beginning at 10:00 a.m., e.w.t., May 5, 1942, with respect to a proposed marketing agreement and a proposed order regulating the handling of milk in the Cincinnati, Ohio, marketing area.

This notice is given pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 1940 ed. 601 et seq.), and in accordance with the General Regulations of the Surplus Marketing Administration, United States Department of Agriculture (6 F.R. 6570).

This public hearing is for the purpose of receiving evidence with respect to the proposed marketing agreement and order, the provisions of which are hereinafter set forth in detail. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture, and at the hearing evidence will be received relative to all aspects of the marketing conditions which are dealt with by the proposed marketing agreement and order. The provisions of the proposed marketing agreement and order are as follows:

A. PROPOSED MARKETING AGREEMENT AND ORDER SUBMITTED BY THE CINCINNATI SALES ASSOCIATION.

Sec. 922.1 Definitions - (a) Terms - The following terms shall have the following meanings:

- (1) The term "Secretary" means the Secretary of Agriculture of the United States.
- (2) The term "Cincinnati, Ohio, marketing area," hereinafter called the "marketing area", means the city of Cincinnati, Ohio, and the territory included within the boundary lines of Hamilton County, Ohio.
- (3) The term "person" means any individual, partnership, corporation, association, or any other business unit.
- (4) The term "producer" means any person who produces milk which is received by a handler at a plant from which under approval of the proper health authorities, milk is disposed of as milk in the marketing area, or which is caused to be diverted under the conditions set forth in subparagraph (5) of the paragraph with respect to milk diverted by a cooperative association to a plant from which no milk is disposed of as milk in the marketing area: Provided, That if such producer has not regularly distributed milk in the marketing area or has not disposed of milk to a handler for a period of 30 days prior to May 1, 1938, but begins the regular delivery of milk to a handler, he shall be known

as a "new producer" for a period beginning with the date of his first delivery of milk and including the first two full calendar months of regular delivery following the date of first delivery to a handler, after which he shall be known as a producer.

- behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce, or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This definition shall be deemed to include any cooperative association with respect to the milk of any producer whose milk previously has been received by a handler which such cooperative association causes to be delivered during the delivery periods of April, May, and June to a plant from which no milk is disposed of as milk in the marketing area, for the account of such cooperative association and for which such cooperative association collects payment. This definition shall not be deemed to include any person from whom emergency milk is received or any person who handles only milk of his own production.
 - (6) The term "delivery period" means any calendar month.
- (7) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.
- (8) The term "market administrator" means the agency which is described in § 922.2 for the administration hereof.
- (9) The term "emergency milk" means milk received by a handler from sources other than producers or new producers under a permit to receive such milk issued to him by the proper health authorities: Provided, That the total quantity of such milk received shall be in excess of the total quantity of milk diverted on the same day by a cooperative association under the conditions set forth in subparagraph (5) of this paragraph.
- (10) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.
- Sec. 922.2 Market administrator (a) Designation The agency for the administration hereof shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.
 - (b) Powers The market administrator shall:
 - (1) Administer the terms and provisions hereof; and
- (2) Report to the Secretary complaints of violations of the provisions hereof.

- (c) Duties The market administrator shall:
- (1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;
- (2) Pay, out of the funds provided by § 922.9 the cost of his bond, his own compensation, and all other expenses which are necessarily incurred in the maintenance and functioning of his office;
- (3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his sucressor or to such other person as the Secretary may designate;
- (4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within two days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to § 922.3 or (b) made payments pursuant to § 922.7 and § 922.9; and
- (5) Promptly verify the information contained in the reports submitted by handlers.
- Sec. 922.3 Reports of handlers (a) Submission of reports Each handler shall report to the market administrator in the detail and form prescribed by the market administrator, as follows:
- (1) On or before the 10th day after the end of each delivery period, (a) the receipts of milk at each plant from producers and new producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of milk, if any, produced by him, (d) the receipt of milk and cream at each plant from any other source, if any, (e) the utilization of all receipts of milk for the delivery period, and (f) the name and address of each new producer;
- (2) Within 10 days after the market administrator's request with respect to each producer and new producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk received, (c) the average butterfat test of milk received, and (d) the number of days upon which milk was received;
- (3) On or before the 10th day after the end of each delivery period, his producer pay roll, which shall show for each producer and new producer (a) the total receipts of milk with the average butterfat test thereof, (b) the amount of advance payment to such producer or new producer made pursuant to § 922.7 (a), and (c) the deductions and charges made by the handler;
- (4) On or before the 5th day after the end of each delivery period, the disposition of Class I milk outside the marketing area as follows: (a) the amount and the utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk was shipped, and (f) such other information with respect thereto as the market administrator may request;

- (5) On or before the day such handler receives emergency milk his intention to receive such milk;
- (6) On or before the 10th day after the end of each delivery period, the receipts of emergency milk, as follows: (a) the amount of such milk, (b) the date or dates upon which such milk was received during the delivery period, (c) the plant from which such milk was shipped, (d) the price per hundredweight paid, or to be paid, for such milk, (e) the utilization of such milk, and (f) such other information with respect thereto as the market administrator may request;
- (7) On or before the 10th day after each delivery period, the milk diverted by a cooperative association under the conditions set forth in § 922.1(a)(5) as follows: (a) the amount of such milk, (b) the date or dates upon which such milk was diverted during the delivery period, (c) the plant to which such milk was shipped, (d) the utilization of such milk, and (e) such other information with respect thereto as the market administr tor may request.
- (b) Verification of reports Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities which are necessary for the sampling and weighing of the milk of each producer and new producer.
- Sec. 922.4 Classification of milk (a) Basis of classification Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section
- (b) Classes of utilization The classes of utilization of milk shall be as follows:
- (1) Class I milk shall be all milk disposed of in the form of milk or milk drinks, whether plain or flavored, and all milk not accounted for as Class II milk or Class III milk.
- (2) Class II milk shall be all milk used to producedcream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.
- (3) Class III milk shall be all milk accounted for (a) as actual plant shrinkage but not to exceed 2 percent of total receipts of milk from producers and new producers, and (b) as used to produce a milk product other than those specified in Class II milk.
- (c) Interhandler and nonhandler sales Milk disposed of by a handler to another handler or to a person who is not a handler but who distributes milk or manufactures milk products, shall be Class I milk: Provided, That if the selling handler on or before the 10th day after the end of the delivery period furnishes to the market administrator a statement, which is signed by the buyer and the seller, that such milk was used as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.
- (d) Computation of milk in each class For each delivery period, the market administrator shall compute for each handler the amount of milk in each class, as defined in paragraph (b) of this section, as follows:

- (1) Determine the total pounds of milk (a) received from producers and new producers, (b) produced by him, if any, (c) received from other handlers, if any, (d) received as emergency milk, if any, (e) the hundredweight of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler) received from any other source, if any, and (f) add together the resulting amounts.
- (2) Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers and new producers by its average butterfat test; (b) multiply the weight of the milk produced by him, if any, by its average butterfat test; (c) multiply the weight of milk received from other handlers, if any, by its average butterfat test; (d) multiply the reight of emergency milk, if any, by its average butterfat test; (e) multiply the weight of milk and or an received from any other source, if any, by its average butterfat test; and (f) add together the resulting amounts.
- (3) Determine the total pounds of milk in Class I as follows: (a) convert to half pin s the quantity of milk disposed of in the form of milk or milk crinks, whether plain or flavored, and multiply by 0.5375; (b) multiply the result by the average butterfat test of such milk; and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs (ii) (b) and (5)(b) of this paragraph, is less than the total pounds of butterfat received, computed in accordance with subparagraph (2) of this paragraph, an amount equal to the difference shall be divided by 4.0 percent and the resulting amount shall be added to the quantity of milk determined pursuant to (a) of this subparagraph.
- (14) Determine the total pounds of milk in Class II as follows: (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test; (b) add together the resulting amounts; and (c) divide the result obtained in (b) of t is subparagraph by 4.0 percent.
- (5) betermine the total pounds of milk in Class III as follows: (a) multiply the regual weight of each of the several products of Class III milk by its average butterfat test; (b) add together the resulting amounts; (c) subtract the total pounds of butterfat in Class I milk and Class II milk, computed pursuant to subparagraphs ())(b) and (4)(b) of this paragraph, and the total pounds of butterfat computed cursuant to (b) of this subparagraph, from the total pounds of butterfat concuted pursuant to subparagraph (2) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the curveses of this paragraph (but in no event shall such plant shrinkage allowance exceed 25 percent of the total receipts of butterfat by the handler); (d) add together the results obtained in (b) and (c) of this subparagraph; and (e) divide the sum obtained in (d) of this subparagraph by 4.0 percent.
- (6) Determine the classification of milk received from producers and new producers as follows:
- (i) Subtract pro rata out of such class the quantity of milk produced by such handler.
- (ii) Subtract from the total pounds of milk in each class the total pounds of milk which were received from other handlers and used in such class.

- (iii) Subtract pro rata out of each class the total pounds of emergency milk.
- (iv) Subtract from the total pounds of milk in each class the total pounds of milk (and milk equivalent of cream converted at the average test of milk received from producers and new producers by the receiving handler), except emergency milk received from sources other than producers, new producers, or handlers and used in such class.
- (e) Reconciliation of utilization of milk by classes with receipts of milk from producers and new producers (1) If the total utilization of milk in the various classes for any handler, as computed pursuant to paragraph (1') of this section, is less than the receipts of milk from producers and new producers, the market administrator shall increase the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and new producers and the total utilization of milk by classes for such handler.
- (2) If the total utilization of milk in the various classes for any handler, as computed pursuant to paragraph (f) of this section, is greater than the receipts of milk from producers, the market administrator shall decrease the total pounds of milk in Class III for such handler by an amount equal to the difference between the receipts of milk from producers and new producers and the total utilization of milk by classes for such handler.
- Sec. 922.5 Prices (a) Class prices Each handler shall pay at the time and in the manner set forth in \$ 922.7 not less than the following prices for milk received at such handler's plant, on the basis of milk of 4.0 percent butterfat content, as follows:
- (1) Class I milk: \$3.00 per hundredweight: Provided, That with respect to Class I milk disposed of by a handler through a recognized relief agency or under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be 32.95 per hundredweight;
 - (2) Class II milk: \$2.75 per hundredweight;
- (3) Class III milk: Except as set forth in subparagraph (4) of this paragraph, the price per hundredweight which shall be calculated by the market administrator as follows: Multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 50 percent thereof; and
- (4) In the case of Class III milk disposed of as butter the price per hundredweight shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of milk, excepting emergency milk, by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from the reports submitted by handlers pursuant to \$ 922.3(a), are less than 120 percent of the

total quantity of milk disposed of as Class I and Class II milk by such handlers, computed pursuant to \$ 922.4, the price set forth above shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of such Class I and Class II milk.

- (b) Price of milk disposed of outside the marketing area The price to be paid by hendlers for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I milk moved from the handler's plant in the marketing area to the plant outside the marketing area where such milk was loaded on wholesale and retail routes.
- (c) Computation of value of milk for each handler (1) For each delivery period the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:
- (i) Multiply the hundredweight of milk in each class, computed in accordance with § 922.4(f) and (g) by the respective class price for 4.0 percent milk: Provided, That, if the average butterfat content of milk received from producers and new producers by such handler is more than 4.0 percent, there shall be added to each class price an amount equal to 1/40 of the price for Class III milk, as set forth in § 922.5(a)(4), for each one-tenth of 1 percent of average butterfat content above 4.0 percent; and if the average butterfat content of milk received from producers and new producers by such handler is less than 4.0 percent, there shall be subtracted from each class price an amount equal to 1/40 of such price for Class III milk, for each one-tenth of 1 percent of average butterfat content below 4.0 percent: And provided further, That if such handler has received milk (or cream), except emergency milk, from sources other than producers, new producers, or handlers, as referred to in § 922.4(f)(6)(iv) and has disposed of such milk (or cream) other than as butter, there shall be added to the value of milk thus determined an amount computed as follows: Multiply the hundredweight of such milk (or milk equivalent of cream) by the difference between the Class III price set forth in § 922.5(a)(4) and the price applicable to the class in which it was disposed. For the hundredweight of milk involved in any adjustment made pursuant to \$ 922.4(g), the handler shall be debited or credited, as the case may be, at the Class III price set forth in \$ 922.5(a)(4).
 - (ii) Add together the resulting amounts.
- (iii) If, in the verification of reports submitted by the handler, the market administrator discovers errors in such reports which result in payments due the producer-settlement fund or the handler for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
- (d) Notification to each handler of value of milk On or before the 13th day after the end of each delivery period, the market administrator shall bill each handler for the value of milk computed in accordance with this section.
- Sec. 922.6 Computation and announcement of uniform price For each delivery period, the market administrator shall compute the uniform price, as provided in

paragraph (a) of this section.

- (a) Computation of uniform price The market administrator shall compute the uniform price per hundredweight of milk received by handlers during each delivery period as follows:
- (1) Add together the values of milk computed in § 922.5(e) for each handler who made the payments to the producer-settlement fund as required by § 922.7(b).
 - (2) Subtract from such sum the amounts calculated pursuant to § 922.8(a)(2).
- (3) Subtract, if the average butterfat test of all milk is greater than 4.0 percent, or add, if the average butterfat test of such milk is less than 4.0 percent, an amount computed as follows: Multiply the hundredweight of milk by the variance of such average butterfat test from 4.0 percent, and multiply the resulting amount by \$0.40 if the average price of butter, as described in \$ 922.5(a) was more than 30 cents, or by \$0.30 if such average price of butter was 30 cents or less.
 - (4) Add the cash balance, if any, in the producer-settlement fund.
- (5) Divide by the total hundredweight of milk received from producers other than the milk represented by the amount subtracted in subparagraph (2) of this paragraph.
- (6) Subtract from the figure obtained in subparagraph (5) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining a cash balance to provide against errors in reports and payments by handlers. The result shall be known as the uniform price per hundredweight for such delivery period for milk of producers which contains 4.0 percent butterfat.
- (b) Announcement of prices and transportation rates On or before the beginning of the following delivery period, the market administrator shall notify each handler of the uniform price for milk, and of the prices for Class III milk, and shall make public announcement of the uniform price computation. From time to time, the market administrator shall also publicly announce the amounts per hundredweight deducted by each handler from the payments made to producers and new producers pursuant to § 922.8 for the transportation of milk from the farms of producers and new producers to such handler's plant or plants, as ascertained from reports submitted pursuant to § 922.3(a)(3).
- Sec. 922.7 Payment for milk (a) Payment to producers and new producers On or before the 5th day after the end of each delivery period, each handler shall pay, with respect to all milk received during the delivery period, \$1.00 per hundredweight of milk to each producer and \$0.50 per hundredweight of milk to each new producer: Provided, That in the event the total amount of the deductions and charges authorized by any producer or new producer against payments due such producer or new producer for the delivery period next preceding is greater than the payment computed for such producer or new producer pursuant to \$ 922.8(a) with respect to milk received from such producer or new producer during such preceding delivery period, the handler may deduct from the payment required by this paragraph a sum equal to the difference between such amounts.

- (b) Payment to producer-settlement fund .- On or before the 17th day after the end of each delivery period, each handler shall pay to the market administrator the amount of money which represents the value of milk billed to him for such delivery period, pursuant to \$ 922.5(d), less the amount paid out to each producer and new producer in accordance with paragraph (a) of this section, and less the amount of the deductions and charges authorized by such producer or new producer which are itemized on the handler's producer pay roll: Provided, That, in the calculation of the total amount of such deductions and charges to be subtracted, the deductions and charges to be considered with respect to each individual producer or new producer shall not be greater than an amount which, when added to the payment made to such producer or new producer in accordance with paragraph (a) of this section (inclusive of the deductions and charges authorized by paragraph (a) or this section), will not exceed the total value of the milk received from such producer or new producer. The market administrator shall maintain a separate fund, known as the producer-settlement fund, in which he shall deposit all payments of handlers received pursuant to this paragraph.
- Sec. 922.8 Payments from producer-settlement fund (a) Calculation of payments for each producer and new producer For each delivery period, the market administrator shall calculate the payment due each producer and new producer from whom milk was received during such delivery period by a handler who paid into the producer-settlement fund in accordance with § 922.7, as follows:
- (1) Multiply the hundredweight of milk received from each producer by the uniform price computed in accordance with § 922.6(a): Provided, That, if the milk of such producer was of an average butterfat content other than 4.0 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4 percent, 4 cents per hundredweight of milk if the average price of butter as described in § 922.5(a) was more than 30 cents, or 3 cents per hundredweight if such average price of butter was 30 cents or less.
- (2) Multiply the hundredweight of milk received from each new producer by the price for Class III milk as provided in § 922.5(a): Provided, That, if such milk was of an average butterfat content other than 4.0 percent, there shall be added or subtracted for each one-tenth of 1 percent variance above or below 4.0 percent, an amount per hundredweight equal to 1/40 of such price for Class III milk.
- (3) Subtract, in each case, the amount of the payment made pursuant to § 922.7(a), and the charges and the deductions, if any, which are made pursuant to § 922.7(b).
- (b) Payments On or before the 20th day after the end of each delivery period, the market administrator shall pay, subject to the provisions of § 922.10, to each cooperative association authorized to receive payments due producers or new producers who market their milk through such cooperative association, the aggregate of payments calculated pursuant to paragraph (a) of this section, for all producers and new producers certified to the market administrator by such cooperative association as having authorized such cooperative association to receive such payments, and shall pay direct to each producer and new producer, who has not been certified as having authorized such cooperative association to receive such payments, the amount of the payments calculated pursuant to paragraph (a) of this section.

- Sec. 922.9 Expense of administration (a) Payment by handler As his prorata share of the expenses which will be necessarily incurred in the maintenance and functioning of the office of the market administrator, each handler, with respect to all milk received from producers and new producers, or produced by him, during the delivery period, shall pay the market administrator, on or before the 17th day after the end of each delivery period, that amount per hundredweight, not to exceed 2 cents, which is amnounced by the market administrator on or before the 13th day after the end of the delivery period.
- Sec. 922.10 Marketing services (a) Deductions for marketing services The market administrator shall deduct an amount not exceeding 4 cents per hundred-weight of milk (the exact amount to be determined by the market administrator), from the payments made pursuant to § 922.8(b), with respect to those producers and new producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," for the purpose of performing for such producers and new producers the services set forth in paragraph (b) of this section.
- (b) Marketing services to be rendered The moneys received by the market administrator pursuant to paragraph (a) of this section shall be expended by the market administrator for market information to, and for verification of weights, samples, and tests of milk received from producers and new producers for whom a cooperative association, as described in paragraph (a) of this section, is not performing the same services on a comparable basis, as determined by the market administrator, subject to the review of the Secretary.
- Sec. 922.11 Effective time, suspension, or termination (a) Effective time The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.
- (b) Suspension or termination of order The Secretary may suspend or terminate this order whenever he finds that this order obstructs or does not tend to effectuate the declared policy of the act. This order shall in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.
- (c) Continuing power and duty of the market administrator If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: Provided, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.
- (1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary execute such

assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

- (d) Liquidation after suspension or termination Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.
- Sec. 922.12 Liability (a) Liability of handlers The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.
- Sec. 922.13 Counterparts and additional parties (a) Counterparts of marketing agreement, as amended This agreement, as amended, may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were obtained in one original.
- (b) Additional parties to marketing agreement, as amended After this agreement, as amended, first takes effect any handler may become a party to this agreement, as amended, if a counterpart thereof is executed by him and delivered to the Secretary. This agreement, as amended, shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement, as amended, shall then be effective as to such new contracting party.
- B. PROPOSED PROVISIONS SUBMITTED BY MATTHEWS-FRECHTLING DAIRY COMPANY, J.H. FIELMAN DAIRY COMPANY, J. WEBER DAIRY COMPANY, AND HYDE PARE DAIRY COMPANY FOR CONSIDERATION IN CONNECTION WITH PROPOSED MARKETING AGREEMENT AND ORDER.
 - 1. Substitute as § 922.4(d) the following:
- (d) Computation of butterfat in each class For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as defined in paragraph (b) of this section, as follows:
- (1) Determine the total pounds of butterfat received as follows: (a) multiply the weight of the milk received from producers and new producers by its average butterfat test, (b) multiply the weight of the milk produced by him, if any, by its average butterfat test, (c) multiply the weight of the milk and cream received from handlers, if any, by its average butterfat test, (d) multiply the weight of emergency milk, if any, by its average butterfat test, (e) multiply the weight of milk and cream received from any other source, if any, by its average butterfat test, and (f) add together the resulting amounts.

- (2) Determine the total pounds of butterfat in Class I milk as follows:
 (a) convert to half pints the quantity of milk disposed of in the form of milk or milk drinks, whether plain or flavored, and multiply by 0.5375, (b) multiply the results by the average butterfat test of such milk, and (c) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk and Class III milk computed pursuant to subparagraphs (3) and (4) of this paragraph is less than the total pounds of butterfat received, computed in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (b) of this subparagraph.
- (3) Determine the total pounds of butterfat in Class II milk as follows:
 (a) multiply the actual weight of each of the several products of Class II milk by its average butterfat test and (b) add together the resulting amounts.
- (4) Determine the total pounds of butterfat in Class III milk as follows:
 (a) multiply the actual weight of each of the several products of Class III
 milk by its average butterfat test, (b) subtract the total pounds of butterfat
 in Class I milk and Class II milk computed pursuant to subparagraphs (2)(b) and
 (3) of this paragraph and the total pounds of butterfat computed pursuant
 to subparagraph from the total pounds of butterfat computed pursuant
 to subparagraph (1) of this paragraph, which resulting quantity shall be allowed
 as plant shrinkage for the purposes of this paragraph (but in no event shall
 such plant shrinkage allowance exceed 2-1/2 percent of the total receipts of
 butterfat by the handler), and (c) add together the resulting amounts.
- (5) Determine the classification of the butterfat received from producers and new producers, as follows:
- (i) Subtract from the total pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.
- (ii) In the case of a handler who also distributes milk of his own production, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat produced by him.
- (iii) In the case of a handler who has received emergency milk during the delivery period, subtract from the total pounds of butterfat in each class a further amount which shall be computed as follows: divide the total pounds of butterfat in said class by the total pounds of butterfat in all classes and multiply by the total pounds of butterfat contained in emergency milk received.
- (iv) Subtract from the total pounds of butterfat in each class the total pounds of butterfat, except butterfat in emergency milk, which were received from sources other than producers, new producers, or handlers and used in such class.
- (e) Computation of milk in each class For each delivery period, the market administrator shall compute for each handler the hundredweight of milk in each class, which was received from producers and new producers and to which the prices set forth in § 922.5 apply, as follows:
- (1) Divide the total pounds of butterfat computed for each class in accordance with paragraph (d)(5) of this section by the average test of all milk received from producers and new producers by such handler.

- 2. Substitute as § 922.5(b) the following:
- (b) Price of milk disposed of outside the marketing area The price to be paid by handlers for Class I and Class II milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, subject to a reasonable adjustment on account of transportation with respect to Class I and Class II milk moved from the handler's plant in the marketing area to the plant outside the marketing area where such milk was loaded on wholesale and retail routes.
- (c) Computation of value of milk for each handler (1) For each delivery period, the market administrator shall compute the value of milk which each handler has received from producers and new producers, as follows:
- (i) Multiply the hundredweight of milk in each class, computed in accordance with \$ 922.4(e)(1), by the respective class price for 4.0 percent milk: Provided, That if the average butterfat test of milk received from producers and new producers by such handler is more than 4.0 percent, there shall be added to the respective Class I and Class II prices for 4.0 percent milk, 4 cents per hundredweight, and to the respective prices for Class III milk as provided in paragraph (a) of this section, there shall be added an amount equal to 1/40 of such respective Class III prices for each one-tenth of 1 percent of average butterfat content above 4.0 percent; and if the average butterfat content of milk received from producers and new producers by such handler is less than 4.0 percent, there shall be subtracted from the respective Class I and Class II prices for 4.0 percent milk 4 cents per hundredweight, and from the respective prices for Class III milk as provided in paragraph (a) of this section there shall be deducted an amount equal to 1/40 of such respective Class III prices for each one-tenth of 1 percent of average butterfat content below 1.0 percent: And provided further, That if such handler has received milk (or cream), except emergency milk, from sources other than producers, new producers, or handlers, as referred to in § 922.4(d)(5)(iv), and has disposed of such milk (or cream) other than as butter, there shall be added to the value of milk thus determined an amount computed as follows: multiply the hundredweight of such milk (or milk equivalent of cream) by the difference between the Class III price set forth in § 922.5(a)(4) and the price applicable to the class in which it was disposed.
 - (ii) Add together the resulting amounts.
- (iii) If, in the verification of reports submitted by the handler, the market administrator discovers errors in such reports which result in payments due the producer-settlement fund or the handler for any previous delivery periods, there shall be added or subtracted, as the case may be, the amount necessary to correct any such errors.
- C. PROPOSED PROVISIONS SUBMITTED BY J. H. FIELMAN DAIRY COMPANY, J. WEBER DAIRY COMPANY, AND HYDE PARK DAIRY COMPANY FOR CONSIDERATION IN CONNECTION WITH PROPOSED MARKETING AGREEMENT AND ORDER.
 - 1. Substitute as 8 922.5(a) the following:

Sec. 922.5(a) Class prices - Each handler shall pay at the time and in the manner set forth in \$ 922.7 not less than the following prices for milk received at such handler's plant on the basis of 4.0 percent butterfat content, as follows:

- (1) Class I milk \$3.20 per hundredweight for all delivery periods prior to September 1, 1942, and \$3.50 per hundredweight for all delivery periods subsequent to August 31, 1942: Provided, That with respect to Class I milk disposed of by a handler through a recognized relief agency or under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be \$2.55 for all delivery periods prior to September 1, 1942, and \$2.85 per hundredweight for all delivery periods subsequent to August 30, 1942.
- (2) Class II milk: \$2.35 per hundredweight for all delivery periods prior to September 1, 1942, and \$2.55 per hundredweight for all delivery periods subsequent to August 31, 1942.
- (3) Class III milk: Except as set forth in subparagraph (4) of this paragraph, the price per hundredweight which shall be calculated by the market administrator as follows: Multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received and add 35 percent thereof for all delivery periods prior to September 1, 1942, and add 40 percent thereof for all delivery periods subsequent to August 31, 1942.
- (4) In the case of Class III milk disposed of as butter the price per hundredweight shall be the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, plus 2 cents, multiplied by 4. In the event that the total receipts of milk, excepting emergency milk, by all handlers from producers and new producers during the delivery period, as ascertained by the market administrator from reports submitted by handlers pursuant to \$ 922.3(a), are less than 125 percent of the total quantity of milk disposed of as Class I and Class II milk by such handlers, computed pursuant to \$ 922.4, the price set forth above shall apply to a quantity of milk disposed of as butter but not to exceed 10 percent of such Class I and Class II milk.

2. Add as \$ 922.14 the following:

- Sec. 922.14 Market advisory committee (a) Representation, selection, approval, and removal Subsequent to the effective date of this order, representatives of producers and handlers may certify to the Secretary the selection of four individuals by each group for membership on the market advisory committee. Upon approval of the Secretary, the eight individuals so selected shall constitute the market advisory committee. Each member of the market advisory committee shall serve for a term of one year unless sooner removed by the Secretary. After the market advisory committee has been constituted, vacancies in the membership thereof shall be filled in the same manner as the original selections were made.
- (b) Powers The market advisory committee shall have the power to recommend to the Secretary amendments to this order originating within itself or submitted to it by interested parties after a study of the facts available to the market

advisory committee.

The Secretary may designate this committee to arbitrate any disputes which might arise over the interpretation of this order or in reference to prices fixed in this order. Any such arbitration, however, shall not become effective until approved by the Secretary, and the Secretary shall not approve same unless he finds that said award of the arbitration committee tends to effectuate policies of this act.

- D. PROPOSED PROVISIONS SUBMITTED BY THE CO-OPERATIVE PURE MILK ASSOCIATION FOR CONSIDERATION IN CONNECTION WITH PROPOSED MARKETING AGREEMENT AND ORDER.
 - 1. Substitute as \$ 922.6(a) the following:

Sec. 922.6(a) Computation of uniform price - The market administrator shall compute the uniform price per hundredweight of milk received by each handler during each delivery period as follows:

- (1) Subtract from the value of milk as computed in \$ 922.5(c) for such handler the amounts calculated pursuant to \$ 922.8(a)(2).
- (2) Subtract, if the average butterfat test of all milk is greater than 4.0 percent, or add, if the average butterfat test of such milk is less than 4.0 percent, an amount computed as follows: Multiply the hundredweight of milk by the variance of such average butterfat test from 4.0 percent, and multiply the resulting amount by \$0.40 if the average price of butter, as described in § 922.5(a) was more than 30 cents, or by \$0.30 if such average price of butter was 30 cents or less.
 - (3) Add the cash balance, if any, in the producer-settlement fund.
- (4) Divide by the total hundredweight of milk received from producers by such handler other than the milk represented by the amount subtracted in subparagraph (1) of this paragraph.
- (5) Subtract from the figure obtained in subparagraph (4) of this paragraph not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining a cash balance to provide against errors in reports and payments by each handler. The result shall be known as such handlers' uniform price per hundredweight for such delivery period for milk of producers which contains 4.0 percent butterfat.

Additional copies of this notice of hearing may be procured from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in room 0312, South Building, Washington, D. C., or may be there inspected.

/s/ Thomas J. Flavin
Assistant to the Secretary of Agriculture

Acting pursuant to authority delegated by the Dated: April 16, 1942 Secretary of Agriculture under the Act of April 4, 1940 (54 Stat. A1).

Washington, D. C.

